

At a Civil Term, Part 20, of
the Supreme Court of the State
of New York, held in and for
the County of New York, at 9:30
a.m. on the 17th day of May,
1993.

Present: Hon. Joan B. Lobis, Justice

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In the Matter of the Application of :
EDITH CALVIN and DEXTER CAPERS, :
et al., individually and on behalf :
of all other persons similarly situated, :
:
Petitioners, :
:

For an Order pursuant to Article 78 :
of the Civil Practice Law and Rules, :

- against - :

CATHERINE ABATE, Commissioner of the :
New York City Department of Correction; :
NORMAN GOODMAN, County Clerk of New :
York County; GLORIA D'AMICO, County :
Clerk of Queens County; WILBUR A. :
LEVIN, County Clerk of Kings County; :
LEO LEVY, County Clerk of Bronx County; :
MARIO J. ESPOSITO, County Clerk of :
Richmond County; THOMAS A. COUGHLIN III, :
Commissioner of the New York State :
Department of Correctional Services; :
and RAUL RUSSI, Chair of the New York :
State Division of Parole, in Their :
Official Capacities, :
:

Respondents.

ORDER ADJUDGING
RESPONDENT/DEFENDANT
COUGHLIN IN CONTEMPT

Index # 44831/91

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WHEREAS, on September 21, 1992, this Court entered an Order in
the above-captioned matter approving a Settlement Agreement which
had been signed by counsel for Petitioners and for Respondents
CATHERINE ABATE, Commissioner of the New York City Department of
Correction, THOMAS A. COUGHLIN III, Commissioner of the New York

State Department of Correctional Services, and RAUL RUSSI, Chair of the New York State Division of Parole; and

WHEREAS, the Settlement Agreement requires, inter alia, that Commissioner COUGHLIN accept the transfer within 10 business days of all "state ready" prisoners who have been newly sentenced to State prison sentences or finally adjudicated to be in violation of parole, or who are state prisoners being returned to State custody following satisfaction of court orders ("court returns"); and

WHEREAS, on April 27, 1993, Petitioner/Plaintiffs moved by their counsel for orders adjudging Respondent/Defendant COUGHLIN in civil contempt, pursuant to Judiciary Law §753, for failing to accept the transfer of "state ready" prisoners within 10 business days; and

WHEREAS, this Court ordered Respondent/Defendant COUGHLIN to appear at a hearing on May 14, 1993, to show cause why he should not be adjudged in contempt, and at hearings held on May 14 and 17, 1993, this Court found and determined that Respondent/Defendant COUGHLIN had violated his obligations under the Court's September 21, 1992, Transfer Order to accept transfer of "state ready" prisoners within 10 days; and

WHEREAS, this Court previously adjudged Respondent/Defendant COUGHLIN in contempt of its Transfer Order on November 13, 1992, and entered an Order purging him of his contempt adjudication on December 14, 1992, after he brought State DOCS into compliance with the Transfer Order; and

WHEREAS, it was brought to this Court's attention during other

proceedings in the above-captioned matter on February 11, 1993, that Respondent/Defendant COUGHLIN was then again violating his obligations to accept transfer of "state ready" prisoners within 10 days, at which time his counsel agreed to bring State DOCS into compliance with the Transfer Order by March 1, 1993; and

WHEREAS, at hearings held on May 14 and 17, 1993, counsel for Petitioners/Plaintiffs identified approximately 20 "state ready" newly-sentenced prisoners and 3 "state ready" finally-adjudicated parole violators who are overdue for transfer and are awaiting medical beds, and 27 "state ready" court-return prisoners who were overdue for transfer as of May 14, 1993, all of whom are named in a list appended to this Order as Exhibit A, and Respondent/Defendant COUGHLIN failed to show good cause why he should not accept the transfer of these prisoners,

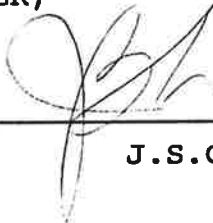
IT IS HEREBY ADJUDGED AND ORDERED, that Petitioners/Plaintiffs' motion for an Order adjudging Respondent/Defendant COUGHLIN in contempt of the September 21, 1992, Transfer Order is granted and Respondent/Defendant COUGHLIN is hereby adjudged to be in contempt; AND IT IS FURTHER

ORDERED, that Respondent/Defendant THOMAS A. COUGHLIN III is hereby enjoined from henceforth failing to accept transfer of newly-sentenced prisoners, adjudicated parole violators and State "court return" prisoners within 10 business days of the date when they become "state ready"; AND IT IS FURTHER

ORDERED, that Commissioner COUGHLIN shall forthwith accept the transfer by May 28, 1993, of all newly-sentenced prisoners and

finally-adjudicated parole violators identified in Exhibit A who are awaiting medical beds and who are medically certified to be fit for transfer, and shall also forthwith accept the transfer by May 28, 1993, of the 20 court-return prisoners identified in Exhibit A, who were overdue for transfer as of the date of this Order.

ENTER,

A handwritten signature in dark ink, appearing to be 'J.S.C.', is written over a horizontal line.

J.S.C.

STATE PRISONERS OVERDUE FOR TRANSFER AS OF 5/14/93

Newly-Sentenced; "M" Designations

<u>Name</u>	<u>NYSID #</u>	<u>SR Date</u>	<u>List</u>
Jose Carlos	3694403P	7/17/92	Downstate
Miguel Cruz	4872941M	7/17/92	Downstate
Larry Lovelace	4567156Z	7/17/92	Downstate
Michael Kennedy	4870279R	9/2/92	Downstate
Eugenia Riley	4318096Z	11/27/92	Bedford
Nora Hernandez	4849800L	1/25/93	Bedford
Kelly Robinson	5318856Z	1/27/93	Bedford
Jeanette Jackson	6452537M	2/22/93	Bedford
Keith Boyce	2739262J	3/23/93	Downstate
Joanna Matthews	6652014P	4/13/93	Bedford
Gerald Brown	5233633Z	4/15/93	Downstate
Marianna Lopez	5783885Q	4/15/93	Bedford
Christopher Taylor	6273496N	4/19/93	Downstate
Teodore Morales	6439142N	4/20/93	Downstate
Edward Smith	6769010N	4/20/93	Ulster
Joseph Smith	3436415J	4/23/93	Ulster
Juan Gonzalez	3454066J	4/26/93	Downstate
Moses Haynes	3274310P	4/26/93	Ulster
Juan Vasquez	3797355Z	4/26/93	Downstate
Emilio Rivera	2787232Y	4/27/93	Ulster

Parole Violators; "M" Designations

<u>Name</u>	<u>NYSID #</u>	<u>SR Date</u>
Luis Maldonado	4876927K	3/12/93
James Kearney	4290435P	4/5/93
Thomas Moore	5249673H	4/7/93

Court Returns

<u>Name</u>	<u>NYSID #</u>	<u>Notice Date</u>
Vincent Alston	4345408P	4/28/93
Roberto Ayala	4174637P	4/15/93
Matthew ^{Randall} Bonduri	3203509Q	4/28/93
Johnny Briston	4452899H	4/15/93
Robert Callozo	3468928H	4/28/93
Thomas Devine	0288137L	4/28/93
Jose Cruz	3606337R	3/24/93
Gregory Deary	0650422N	3/25/93
Arthur Gibson	6417206K	4/28/93
Arnaldo Gonzalez	3450391Y	3/31/93
Martin Hodge	4636363J	4/26/93
Richard Ifill	1183606M	11/28/92
Luther Johnson	5598289R	4/12/93
Ralph Lopez	5887603R	3/19/93
George Marrero	4451162J	4/5/93
Gregory Martin	6214693Y	3/11/93
Andrew Miciotta	3715764J	4/14/93

Court Returns, continued

<u>Name</u>	<u>NYSID #</u>	<u>Notice Date</u>
Richard Morales ¹	1374423N	4/22/93
Keino Moss	4874155K	3/31/93
Anthony Neufville	6122732Z	4/28/93
Anibal Nicot	3923166N	4/28/93
Miguel Rivera	6770044R	4/28/93
Daniel Rossi	4902492Y	3/31/93
Kenneth Ruffin	4343669Q	4/28/93
Steven Saxon	4693103P	4/28/93
Dana Williams	6333482M	4/29/93
Robert Wise	3707889Q	4/26/93

¹ This court return prisoner has an "M" designation, indicating a medical hold.