

9/1

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

RANDOLPH DICKERSON, et al.,

Plaintiffs,

v.

MICHAEL N. CASTLE, Governor
of the State of Delaware, et al.,

Defendants.

Civil Action No. 10256

STIPULATION FOR DISMISSAL OF
SECOND MOTION FOR ORDER TO SHOW CAUSE

I. OVERCROWDING

A. The defendants shall make good faith efforts to begin phasing into operation the four new pods at Gander Hill by October 18, 1992. Barring any unforeseen circumstances, the defendants shall make good faith efforts to complete the phasing in on or before October 30, 1992. In the event that, despite good faith efforts, the defendants anticipate that they will not meet either deadline, the defendants shall promptly notify plaintiffs of the cause of the delay, as well as the expected length of the delay.

B. i. After the four new pods at Gander Hill are operational, the defendants shall cease, throughout the system, to triple cell within any cell or room designed for single occupancy, except as set forth in Paragraph I.C.ii, infra.

ii. In addition, after the four pods in the Gander Hill expansion are operational, the defendants shall not house any prisoner in any area not designed for housing, throughout the system, except as set forth in Paragraph I.C.ii, infra.

Dickerson v. DuPont



PC-DE-001-004

c

iii. For the purpose of Paragraph I.B., the phrase "throughout the system" shall refer to Gander Hill, the Delaware Correctional Center, the Women's Correctional Institution and the Sussex Correctional Institution.

iv. This Stipulation does not address whether triple celling in cells designed for double occupancy may, under all the circumstances, fall below minimum constitutional standards.

C. i. If, for any reason, the defendants fail to comply with any provision of this Stipulation that establishes population limits, the defendants should notify counsel for plaintiffs of the relevant facts regarding the violation of the provision, including a description of the violation, the asserted reasons for the violation, the expected duration of the violation, and the plan of the defendants to restore full operation of the provisions of this Stipulation that establish population limits. The defendants' notification of plaintiffs' counsel pursuant to this paragraph shall take place as soon as possible after the violation took place.

ii. Defendants shall not be in violation of the terms of this Stipulation if a temporary violation of the population limits established in this Stipulation is caused by an emergency. For purposes of this Stipulation, an emergency is defined as a circumstance including, but not limited to, incidents caused by a riot, fire or other event not caused by the defendants, their agents or employees, or the State of Delaware, its agents or employees, that makes compliance with the provisions of this

Stipulation that establish population limits temporarily impossible, extraordinarily difficult or infeasible.

D. In addition, the defendants shall continue to implement community-based custody programs and similar alternative incarceration programs. The defendants shall set forth the content of their intended program in a letter to plaintiffs' counsel. Defendants may modify the specific nature of their community-based custody programs and similar alternative incarceration programs. In the event of such modification, defendants shall notify plaintiffs' counsel.

E. This Stipulation does not resolve the issue regarding the Women's Correctional Institution (WCI) raised in the plaintiffs' second motion for order to show cause.

II. LAW LIBRARY

The WCI law library shall be fully operational by July 30, 1992.

III. TUBERCULOSIS CONTROL

By August 15, 1992, the defendants, in cooperation with the medical contract care provider, shall make good faith efforts to develop a comprehensive program for screening, diagnosis and treatment of tuberculosis. In the event that defendants, despite good faith efforts, are unable to develop the plan by August 15, 1992, the defendants shall promptly notify the plaintiffs of the cause, and projected length, of the delay in developing the plan. The defendants' plan shall contain at least the following elements:

1. An immediate program for testing staff;
2. prompt and consistent testing, reading and recording of PPD tests for new arrivals, including the administration of PPD tests as soon as practicable at the time of entry into the system;
3. consistent annual retesting of prisoners and staff with negative PPD test results;
4. development of a tracking system that assures prompt follow up of positive PPD test results to rule out active disease (including chest x-ray, sputum smear and culture, and drug sensitivity testing on positive samples);
5. prompt development and execution of management plans for appropriate prophylaxis, including laboratory monitoring, of persons who have positive PPD results but no active disease;
6. development of a system to observe the administration of prophylactic medications for tuberculosis;
7. development of a system for the thorough investigation of cases of conversion;
8. prompt and aggressive treatment of all active cases of tuberculosis and diagnosis of suspected cases of tuberculosis, including respiratory isolation in a negative pressure room of active and suspected cases and appropriate diagnosis of drug-resistant status; and
9. development of an education program for prisoners, correctional officers, and clinical staff. The clinical staff program should include familiarity with tuberculosis protocols and yearly CME on clinical tuberculosis.

10. For purposes of this Stipulation, the following definitions apply:

a. A suspected case of tuberculosis is a case in which a patient has a positive PPD and clinical symptoms suggesting tuberculosis.


b. A negative pressure room is a patient room meeting the Centers for Disease Control standards for isolation of patients with tuberculosis. See attached Exhibit A.

IV. CONSTRUCTION

By entering into this agreement, defendants are not waiving any affirmative defenses raised in their answer to the second amended contempt petition. Nor is signing this agreement an admission by defendants of any violation of the terms of the settlement agreement previously agreed to by the parties.

FOR PLAINTIFFS:

Neilson Himelein
Community Legal Aid
Society, Incorporated
913 Washington Street
Wilmington, DE 19801
302/575-0660



Elizabeth Alexander
National Prison Project of the
American Civil Liberties Union
1875 Connecticut Ave., N.W.
Suite 410
Washington, DC 20009
202/234-4830

Dated: 9/17/75

FOR DEFENDANTS:

Keith Brady
Office of the Governor
820 N. French Street
12th Floor
Wilmington, DE 19801

Charles M. Oberly, III
Attorney General
Delaware Department of
Justice
820 North French Street
8th Floor
Wilmington, DE 19801
302/577-3090

Dated: _____

David White
Delaware Department of
Justice
820 North French Street
8th Floor
Wilmington, DE 19801
302/577-3090

Dated: _____