

ORIGINAL FILED

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

ESSEX COUNTY JAIL INMATES,
RUSSEL WATSON, et als.,

Plaintiffs,

v.

ALBERT T. COLLIER, Warden,
et als.,

and

WILLIAM H. FAUVER, Commissioner
New Jersey Dept. of Corrections,

Defendants.

Civil Action No. 82-1945

(Harold A. Ackerman, U.S.D.J.)

ORDER AMENDING CONSENT JUDGMENT

THIS MATTER being opened to the Court jointly by David H. Ben-Asher, Essex County Counsel, Attorney for County Defendants, Albert T. Collier, Warden, et als., (David H. Ben-Asher, Essex County Counsel and Bonnie Blume Goldsamt, Assistant County Counsel, appearing), Irwin I. Kimmelman, Attorney General of the State of New Jersey, Attorney for Defendant William H. Fauver, Commissioner, New Jersey Department of Corrections (Joseph T. Maloney, Deputy Attorney General, appearing) and Joseph H. Rodriguez, New Jersey Public Advocate and Public Defender, Attorney for Plaintiffs, Essex County Jail Inmates, et als., (T. Gary Mitchell, Director, Office of Inmate Advocacy, appearing), and upon the parties' agreement to amend the October 14, 1982 Consent Judgment previously entered in this action, as provided for below; and

WHEREAS, the introduction of anticipated changes in criminal procedures in Essex County may reduce the county jail population to alleviate continued overcrowding; and

WHEREAS, the parties have agreed through their respective attorneys to the following interim provisions to adjust their present differences about the steps necessary to resolve continued jail overcrowding in Essex County, subject to the approval of this Court; and

WHEREAS, the following provisions shall be binding upon the parties and shall be enforceable as such, and

WHEREAS, the aforesaid Consent Judgment shall remain in full force and effect, except as herein modified;

NOW THEREFORE, it is on this 22nd day of February, 1984, ORDERED as follows:

1. Paragraph 11 of the October 14, 1982 Consent Judgment is hereby amended to read, as follows:

(a). The County agrees to maintain the population of the Essex County Jail at, or below, 594 inmates, except that throughout the period of February 22, 1984 to August 22, 1984, the Essex County Jail population may exceed the stated capacity by 31 inmates;

(b). In addition to the 31 inmates referred to in subparagraph (a) above, the Essex County Jail may house an additional 28 inmates for periods of 72 hours once a week; and

(c). This paragraph amending paragraph 11 of the October 14, 1982 Consent Judgment shall expire on August 22, 1984, and on that date paragraph 11 of the October 14, 1982 Consent Judgment shall become operative again as originally written.

2. The County agrees to retain all necessary personnel, including but not limited to a structural engineer, to study the physical plant of the County Jail Annex in Caldwell and to prepare a proposal for increasing the bedspaces of the Jail Annex to the extent feasible and as specified below, provided that the proposal shall not be construed to impose any obligation upon the County.

(a). The County's report shall examine what steps may be available to the County in order to house additional inmates at the Jail Annex in compliance with minimum health, safety and security standards and shall indicate what would be the nature and cost of any renovations or modifications of the physical plant to accomplish any particular population increases at the Jail Annex.

(b). The County's final report shall include, as requested by the Public Advocate, a specific proposal to increase bedspaces at the Jail Annex from the highest number of beds in use between July 15, 1983 and February 22, 1984, to a number sufficient to provide housing for at least 40 additional inmates by October 22, 1984, and further for an additional 50 inmates by January 22, 1985, for a total of up to 90 additional bedspaces. In addition, the final report may provide further specific proposals to increase bed spaces at the Jail Annex to the extent feasible.

(c). The final report shall be issued and distributed to the parties, and filed with the Special Masters and the Court, by July 22, 1984. This report need not be duplicative of existing studies of the Jail Annex, provided that any existing studies relied upon pertain to the subject of this paragraph.

(d). The County shall issue an interim report to be filed with the Special Masters and the Court, and distributed to the parties, by May 22, 1984, which shall include a report from the structural engineer or other personnel, setting forth the steps being taken towards preparing the report, including the study of the physical plant of the Jail Annex and the specific proposals required by this paragraph.

3. The County further shall study and shall issue a report to the parties and the Special Masters by May 22, 1984, on possible ways to increase the opportunities for exercise and recreation at the Essex County Jail.

(a). This report shall specifically address the following matters:

(1) whether opportunities for exercise and recreation at the Essex County Jail can be increased by means of a staggered food service from a new County centralized food kitchen; (2) whether architectural modifications can be made to the Essex County Jail roof to create an area for outdoor exercise and recreation; and (3) whether additional indoor exercise equipment can be obtained and installed at the Jail. The report may discuss any alternatives to these matters and shall fully set forth the reasons for its recommendations and conclusions.

(b). The County may in its discretion consult outside experts, if it deems such consultation necessary, or if directed to do so by the Court.

(c). Nothing in this paragraph shall modify the terms of the October 14, 1982 Consent Judgment.

4. Commencing February 22, 1984 and continuing until October 22, 1984, plaintiffs' counsel and professional consultants, upon reasonable notice to the County, shall be provided reasonable access to the Jail Annex and to records pertaining to the preparation and evaluation of the County's final report, or relevant to the preparation of any report by plaintiffs' counsel or professional consultants regarding the subjects contained in paragraph 2 of this Order, including the right to inspect all relevant areas and to review documents requested in advance. Within 10 days prior to October 22, 1984, the parties may meet and confer regarding any extension to the plaintiffs' right of access. If the parties agree, the agreement will be embodied in a separate amendment. If the parties disagree, the parties will submit the

matter to the Masters or the Court for resolution. This provision shall not be interpreted to in any way limit such other rights as plaintiffs' counsel may have under the October 1982 Consent Judgment.

Date: Feb 22, 1984

Harold A. Ackerman
HAROLD A. ACKERMAN
United States District Judge

The undersigned hereby consent to the form and entry of the within Order.

DAVID H. BEN-ASHER
Essex County Counsel
Attorney for County Defendants

Date: 2/22/84

By: David Ben-Asher

~~Bonnie Blume Goldsamt~~
~~Assistant County Counsel~~

JOSEPH H. RODRIGUEZ
New Jersey Public Advocate-Defender
Attorney for Plaintiffs

Date: 2-22-84

By: T. Gary Mitchell

T. Gary Mitchell, Director
Office of Inmate Advocay

IRWIN I. KIMMELMAN
Attorney General of New Jersey
Attorney for Defendant, Commissioner Fauver

Date: 2-22-84

By: Joseph T. Maloney

Joseph T. Maloney
Deputy Attorney General