

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. :

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ORDER ADJUDGING
RESPONDENT/DEFENDANT
COUGHLIN IN CONTEMPT

Index # 44831/91

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,

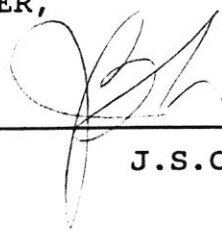
IT IS HEREBY ADJUDGED AND ORDERED, that Petitioners/Plaintiffs' motion for an Order adjudging Respondent/Defendant COUGHLIN in contempt of the September 21, 1992, Transfer Order is granted and Respondent/Defendant COUGHLIN is hereby adjudged to be in contempt; AND IT IS FURTHER

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, consisting of a large, stylized 'J' followed by a series of loops and a final downward stroke, positioned above a horizontal line.

J.S.C.