

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

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APR 15 1983

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SAMUEL E. DOUGLAS, et al., )  
vs. )  
TED EMERY, et. al. )

No. 81-3826  
rec'd 4/13/83  
JUDGE WISEMAN

AGREED ORDER

Samuel E. Douglas, Ricky Clinard, Michael Dean and the class they represent, Ted Emery, P.R. West and Ricky Suter enter into this agreement disposing of some but not all of the issues in Mr. Douglas' individual claim against Messrs. Emery, West and Suter and in the intervenors' complaint in this cause.

This order is not intended to resolve any issues not specifically addressed by the order and reserves all remaining issues for further order or for trial.

The class of plaintiffs which is protected by the permanent injunction of Section 2 of this order is: all persons who are now or who in the future will be confined in the Robertson County Jail.

1) Mr. Douglas agrees to dismiss his claim for compensatory and punitive damages against the defendants Emery, West and Suter.

2) Defendants Emery, West, and Suter agree to the imposition of a permanent injunction, binding themselves, their employees, agents and successors in office:

a) Defendants are enjoined from conducting disciplinary hearings or imposing disciplinary sanctions pursuant to procedure

APR 15 1983

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not consistent with at least the minimal protections required by Wolff v. McDonnell, 418 U.S. 539, 94 S. Ct. 2963, 41 L.Ed2d 935 (1974). This shall include but not be limited to: advance written notice of the claimed violation, at least 24 hours prior to the hearing; a written statement of the fact finders as to the evidence relied upon and the reasons for the disciplinary action; the opportunity to call witnesses and to present documentary evidence in the inmate's defense at the hearing when doing so would not be unduly hazardous to institutional safety or correctional goals. Inmates should also have the opportunity to seek the aid of a fellow inmate to assist in the preparation and presentation of their cases. Hearings should be conducted by an impartial tribunal.

b) Defendants are enjoined from failing to provide each resident of the jail with a list of that conduct which is a violation of the rules and which could result in the imposition of disciplinary sanctions. This list should include the specific disciplinary sanctions which may be imposed for the specific conduct.

c) Defendants are enjoined from placing an inmate in disciplinary segregation in the drunk tank or elsewhere for any except the most severe misconduct.

✓ d) Defendants are enjoined from placing an inmate in disciplinary or administrative segregation indefinitely.

✓ e) Defendants are enjoined from placing an inmate in disciplinary or administrative segregation for more than ten days. This does not include inmates who are segregated at their own request.

APR 15 1983

f) Defendants are enjoined from punishing any inmate, either officially or unofficially, by refusing to provide him or her with medical treatment, by failing to provide him or her with the same food and in the same quantity as is provided other inmates, by corporal punishment, beating or use of physical restraints, by eliminating mail privileges, visits with attorneys or with other visitors, or with failing to provide the inmate with any personal items normally provided to other inmates.

g) Defendants are enjoined from failing to make a notary available to inmates at least once a day, five days per week, to notarize any documents or papers requested by the inmates.

h) Defendants are enjoined from refusing to allow an attorney to visit any inmate or from in any way interfering with the privacy or confidentiality of the visit.

i) Subject to the addition of at least one staff person on the evening shift, defendants are enjoined from failing to allow each inmate at least one hour of visiting per week with family and/or friends.

j) Subject to the addition of at least one staff person on the evening shift, defendants are enjoined from failing to allow each inmate at least one fifteen minute phone call per week. Unless and until such additional staff is added, defendants are enjoined from failing to provide each inmate at least one five minute phone call per week.

APR 15 1983

k) Defendants are enjoined from inspecting for contraband incoming mail from courts, attorneys, or public officials except when the mail is opened and inspected in the presence of the inmate.

l) Defendants are enjoined from failing to collect outgoing mail or failing to deliver incoming mail without unnecessary delay.

m) Defendants are enjoined from censoring inmate mail, both incoming and outgoing, except where there is probable cause to justify the action; in this context, censoring shall be defined as examining the verbal content of mail or any written communication or prohibiting objectionable verbal and written communication being received by the inmate or being placed in the mail to the person to whom it is addressed.

n) Defendants are enjoined from failing to develop and maintain written policy regarding mail censorship. They are further enjoined from promulgating or maintaining any regulation which does not further an important and substantial governmental interest unrelated to the suppression of expression (e.g. detecting escape plans which threaten security and/or the well being of the staff and/or inmates) or from promulgating or maintaining a regulation which is greater than necessary to protect the governmental interest involved.

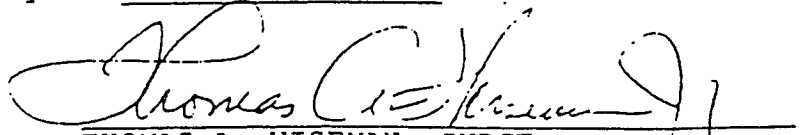
o) Defendants are enjoined from failing to notify an inmate if a letter he or she wrote or a letter addressed to him or her is rejected and from failing to give the author a reasonable opportunity to protest the decision.

p) Defendants are enjoined from failing to provide postage for two free personal letters per week for inmates with less than \$2.00 in their jail accounts. Defendants are further enjoined from failing

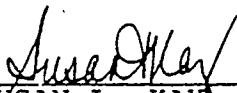
to provide those inmates with less than \$2.00 in their account with postage for all legal or official mail.

3) Defendants Emery, West, and Suter are given fifteen (15) days to file additional pleadings as necessary in this case.

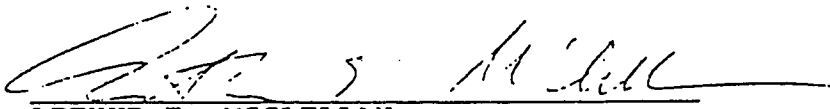
ENTER this the \_\_\_\_ day of \_\_\_\_\_, 1983.

  
THOMAS A. WISEMAN, JUDGE

Approved for Entry:

  
SUSAN L. KAY


Attorney for Plaintiffs

  
ARTHUR E. MCCLELLAN

Attorney for Defendants Emery, West and Suter

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing document has been delivered to William O'Bryan on this 13th day of April, 1983.

  
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APR 15 1983