

APPENDIX B

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

ROBERT E. BULLINGTON, et al., )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 WARDEN MORELAND, et al., )  
 )  
 Defendants, )  
 )  
 Consolidated With )  
 )  
 RONNIE JOHNSON, et al., )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 WILLIAM O'BRIEN, et al., )  
 )  
 Defendants. )

No. 79-650C(1)

FILED *DK*

JUN 21 1983

EYON MENDENHALL  
E. DISTRICT OF MO.  
U. S. DISTRICT COURT

No. 76-210C *721*

MAGISTRATE'S MEMORANDUM

Subject case has been under consideration in the Federal District Court for some time. During the pendency of this case, some twenty meetings have been held by the attorneys representing the prisoners in the St. Louis County Jail, the various executives of St. Louis County and this Court. In addition, the undersigned Magistrate has been in frequent contact with representatives of the St. Louis County Circuit Court. The sudden and enormous growth in population of St. Louis County, the resultant increased crime, two bond issues for the building of a new jail, which were submitted to the voters and defeated, are contributing

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factors leading to the need to reconcile the differences between the County Jail detainees and their jailors.

In prior conferences and hearings in the courtroom, the Court has narrowed the particular issues concerning the County Jail to twelve in number. These were set out in this Court's report to the District Court in July of 1981. Nine of these issues have been reconciled between counsel for the detainees and the County Jail. This reconciliation is contained in the stipulation of the parties filed with this Court. The undersigned Magistrate recommends that the District Court accept the stipulation as submitted as being both fair and legally acceptable to the Federal District Court.

The parties were unable to agree on Item 2 which is titled COLD FOOD AND INADEQUATE PORTIONS THEREOF.

As previously reported, the reviewing Magistrate, without notice to the jail, viewed and sampled the evening meal. It was tasty, adequate and visibly well balanced. It was not of gourmet standing, nor is such required.

Prisoners testified before this Court that there was occasional hair in the tray; that there was sometimes shells in the eggs; that the food was occasionally cold; that religious eating prohibitions were not accommodated; that slaw, zucchini, broccoli and spinach were disliked by many. Several of these echoes are uttered frequently

in typical American households. None of the complaining witnesses appeared to be anything but well nourished and the complaints bordered on frivolity. The reviewing Magistrate is satisfied that the diet in the St. Louis County Jail comports with the requirements of Ahrens v. Thomas, 570 F.2d 286, 289 (8th Cir. 1978); Campbell v. Cauthron, 623 F.2d 503 (8th Cir. 1980).

#### INTERNAL ASSAULTS

The litigants in this matter made a realistic evaluation of the internal assault problem in their stipulation, page 26. Internal assaults in jails and penal institutions are an ever present problem. Tension, proximity, frustration, fear of punishment, lack of sex and racial tension contribute to frequent, physical and emotional conflict. The jail in question is antiquated and was built to serve a county one-third its present size.

At the hearing conducted by the reporting Magistrate, one detainee, who wanted to remain anonymous, reported that he had been raped while another inmate watched. He said he reported the incident and the Clayton Police subsequently investigated. He was moved to isolation for his own protection. Bullington himself said he saw a sexual assault in 1977, but did not report the incident because of fear. One Kay Brown, a social worker, testified that she only knew of one assault (the one reported by the anonymous detainee).

There was (neither claim nor proof of widespread internal assault.) It would appear that the defendant is doing all possible, considering the cramped facilities, to minimize internal assault. The jailer has an active classification process, which should be maintained. When an assault rarely occurs, the defendant is quick to call the local police authorities, who interview the complainant and make a report thereon. Actual criminal prosecution is then in the hands of the local prosecuting attorney and not within the jurisdiction of the defendant. Of course, this does not relieve the jailer of doing his utmost to classify and protect the detainees. However, it would appear that the complaints are extremely isolated and that all reasonably possible is being done to obviate violence. Absent constitutional violations, courts defer to local jail administrators to protect fundamental rights of prisoners. Campbell v. Cauthron, supra. The reviewing Magistrate makes no recommendation as to additional orders in this direction.

#### LENGTH OF PRETRIAL DETENTION

Prisoners in the St. Louis County Jail are basically there to await trial on criminal charges, or in answer to a writ issued by the Circuit Court of St. Louis County. As such, the detainees are committed to the county jailer, who has no control over the length of time of incarceration. The jailer simply awaits judicial

order as to the future movement of the detainee. The jailer has no discretion as to whether or not or as to what terms any detainee can be released from his custody. Obviously then, any question of unconstitutional pretrial detention should be directed to the County Court by said inmates requesting acceleration of judicial process. Inasmuch as there is no reason to censure the jailer or require direction in this area, the reviewing Magistrate (makes no observations on the length of pretrial detention.)

Therefore, the reviewing Magistrate, recommends that the above observations coupled with the stipulation of the parties, be posted in the St. Louis County Jail to invite objection, if necessary, pursuant to 28 U.S.C. §636 (b).

  
UNITED STATES MAGISTRATE

Dated: June 21, 1983