

APPENDIX B

PINZON CONSENT DECREE

Plaintiffs filed this action on May 19, 1987, pursuant to 42 U.S.C. § 1983, alleging that policies and practices of the defendants denied them timely and meaningful preliminary parole revocation hearings in violation of the Fourteenth Amendment.

This Court has jurisdiction over plaintiffs' claims under 28 U.S.C. §§ 1331 and 1343.

On November 20, 1987 this Court certified a plaintiff class (the "Class") consisting of all parolees and mandatory supervised releasees of the Adult Division of the Illinois Department of Corrections who have been or will be arrested on a new criminal charge in Cook County, Illinois and who are or will be imprisoned in Cook County Jail pending a final parole revocation hearing pursuant to a parole violation warrant issued and executed by the defendants.

On December 23, 1987 this Court entered a preliminary injunction order which required defendants, *inter alia*, to provide preliminary parole revocation hearings to members of the Class within ten calendar days of imprisonment pursuant to a parole violation warrant. By this consent decree ("Decree") that preliminary injunction is vacated upon the adoption of the procedures described below.

In order to effect an amicable settlement of this action, the parties having agreed and this Court having found that the interests of the Class will be adequately protected:

IT IS HEREBY ORDERED that Defendants Lane and Klincar and their successors in office shall cause procedures to be adopted within sixty days of the entry of this Decree, which shall reflect the following provisions:

1. Within ten business days of the imprisonment of a parolee/releasee pursuant to the execution of a parole violation warrant, hearing officers designated by the Prisoner Review Board pursuant to Ill. Rev. Stat. ch. 38, §1003-3-9(c) shall conduct a preliminary parole revocation hearing for that parolee/releasee, except as provided in Paragraph 2.

2. A preliminary parole revocation hearing need not be held within ten business days if:

- a. the parolee/releasee waives the preliminary parole revocation hearing; or

- b. the parolee/releasee requests a continuance of the preliminary parole revocation hearing; or
- c. a Court has found probable cause on the criminal charge that prompted the parole revocation charge at a preliminary examination conducted pursuant to Ill. Rev. Stat. ch. 38, §109-1 *et seq.*; or
- d. the parole revocation charge is based upon a new criminal conviction; or
- e. the parolee/releasee is unavailable due to physical or mental health reasons; or
- f. the hearing officer continues the preliminary parole revocation hearing for up to fourteen days from the date the preliminary parole revocation hearing was originally scheduled in order to obtain evidence or to ensure the attendance of witnesses, or for other good cause shown.

The hearing officers shall enter on the written record the reason(s) for not holding the preliminary parole revocation hearing within ten business days of the imprisonment of a parolee/releasee pursuant to a parole violation warrant.

3. Prior to the date of the preliminary parole revocation hearing, the parolee/releasee shall be informed that he/she shall be provided with a preliminary parole revocation hearing within 10 business days of imprisonment pursuant to a parole violation warrant, subject to the conditions outlined in Paragraph 2.

4. The terms of this Decree are applicable to Adult Division parolees/releasees charged with the commission of a new criminal offense and detained in a jail or other penal institution in Cook County pursuant to a parole violation warrant issued and executed by the defendants.

5. The parties shall attempt to resolve informally any problems concerning compliance with the terms of this Decree before bringing alleged violations to the attention of this Court. Isolated or inadvertent failures to comply with the terms of the Decree shall not be deemed to be a violation of its requirements.

6. This Decree is conditioned on the judicial approval of a proposed consent decree in *Kareem Faheem-El v. Klinicar*, No. 84 C 2561.

7. This Decree is conditioned on the entry of an order by this Court dismissing with prejudice this action against all defendants.

8. This Decree shall not be construed as an admission of liability by the defendants or their successors, liability having been expressly denied.

9.  
admin  
the de  
Prison  
employ  
their e  
and all  
or arise  
case.

1993}

Parole Revocation in Illinois

255

l. 24

pre-

inal

pre-

ch.

imi-

al or

rev-

pre-

ed in

wit-

on(s)

within

ursu-

hear-

all be

in 10

war-

vision

iminal

Cook

scuted

blems

bring-

ted or

e shall

a pro-

. 84 C

by this

ndants.

f liabil-

een ex-

9. The named plaintiffs, for themselves, their heirs, executors, administrators and assigns, hereby release and forever discharge the defendants, the Illinois Department of Corrections, the Illinois Prisoner Review Board, and the State of Illinois and their agents, employees and members in their individual and official capacities, their executors, administrators, successors and assigns, from any and all claims and demands, actions and causes of actions resulting or arising from the subject matter and allegations at issue in this case.