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The defendant sought post-conviction relief before the sentencing court from a denial of equal protection of the law arising solely from a classification by sex which resulted in a discrimination in her consideration for parole. The court found that the defendant came under the authority and power of the U.S. Board of Parole pursuant to D.C. Code §24-209 due solely to her designation and placement in a federal correctional facility, and that she was therefore a victim of a discriminatory application of different parole standards than would have been applicable to her if she had appeared before the D.C. Board of Parole. The court found that she came under the authority of the U.S. Board of Parole solely as a result of classification by sex, and that the resulting different treatment violated her rights to equal protection and due process. The court granted declaratory and injunctive relief.

The court found that persons convicted in the D.C. court system are all automatically designated to serve their sentences in D.C. Department of Corrections facilities, with two exceptions, first, safety or security risks, and second, women, who solely on account of their sex are routinely sent to federal institutions simply because there are no facilities in D.C. for sentenced incarcerated women.

The court also found that the standards and rules of the D.C. Board of Parole and the U.S. Board of Parole were different, so that a woman appearing before the federal board would be treated differently than if she appeared before the D.C. Board. The court found that defendant's consideration by the U.S. Board of Parole resulted in the application of different and harsher standards of parole than would have been applied by the D.C. Board of Parole had it had jurisdiction of her case. The court held that this did not constitute a finding of fact concerning whether or not she would have been released, but related only to the application of a different set of standards to defendant simply by virtue of her status as a convicted, sentenced *female* felon from the Superior Court of the District of Columbia. The court ruled that this application of different and harsher parole standards constituted a denial of equal protection in violation of defendant's right to due process under the fifth amendment.

### **Court Orders Implementation of Due Process Procedures for Consideration of Applications for Conditional Parole Release**

**18,962. Zurak v. Regan**, No. 75-CIV-4018 (S.D. N.Y., July 30, 1976). Plaintiffs represented by William Hellerstein, Donald Zuckerman, Natalie Kaplan, Gordon Johnson, The Legal Aid Society, Parole Revocation Defense Unit, 15 Park Row, New York, N.Y. 10038, (212) 577-3500. [Here reported: 18,962A Complaint (7pp.); 18,962B Opinion (11pp.); 18,962C Opinion (19pp).]

In this action, plaintiffs challenged the procedures followed by the New York State Board of Parole when it acts upon applications for "conditional release." Conditional release is a legislatively mandated parole accord inmates serving definite sentences of 90 days up to two years in local correctional institutions whom the parole board finds would live at liberty without violating the law and whose release would not be incompatible with the welfare of society. N.Y. Correction Law §827(1).

Finding that an inmate's interest in prospective parole must be accorded due process protection, the court ordered defendants to institute procedures for the orderly and timely consideration of eligible prisoners' applications, that unsuccessful applicants be given a statement of reasons and the facts relied on in denying release, and that all applicants be afforded a personal appearance before the parole commissioners who act on their applications.

Also, in the course of the litigation, the court refused to quash plaintiffs' subpoena for their parole files. Their files were sought to support their claim that erroneous information is included in haphazardly prepared files which the parole commissioners review when deciding who will be released on parole.

### **Court Specifies Interim Relief on Humane Treatment at Santa Cruz County Jail and Appoints Special Master**

**9568. Sandoval v. Noren**, No. C-72-2213-RFP/SJ (N.D. Cal., July 15, 1976). Plaintiffs represented by Sara Clarenbach, Lorenzo Campbell, Joaquin Celaya, John Maraldo, Community Advocates Legal Aid Society, P.O. Box 1166, 109 E. Lake Ave., Watsonville, Cal. 95076, (408) 724-2253; Keith Lesar. [Here reported: 9568H Order Granting Interim Relief (3pp.); 9568I Amended Order Granting Interim Relief (4pp.); 9568J Order Appointing Special Master (3pp.). Previously reported at 9 CLEARINGHOUSE REV. 661 (Jan. 1976).]

In this suit challenging conditions at the Santa Cruz County Jail, the court previously granted partial summary judgment to plaintiffs on the issues of security, privacy and humane treatment. The court has now determined that defendants must take immediate emergency measures to reduce overcrowding, and it established the maximum numbers of inmates to be housed in particular areas, to be exceeded in extreme emergency only, upon permission from the court. The court also enjoined the defendants from incarcerating anyone in the jail unless they had rectified certain health deficiencies and completed roof-top facilities for recreational sports. Finally, the court appointed a special master to conduct hearings and make findings and recommendations concerning classification, exercise, recreation, staffing, attorney-client confidentiality, medical care, access to the courts, visitation, disciplinary procedures, and a safe and healthful environment.

### **Imposition of Solitary Confinement Solely Because Prisoner Was Sentenced to Death Held Cruel and Unusual Punishment**

**18,856. Story v. Robinson**, No. 75-29657 (Pa. C.P., Allegheny County, June 29, 1976). [Here reported: 18,856A Opinion (10pp).]

The court has held that the eighth amendment to the United States Constitution and Art. I, §13 of the Pennsylvania Constitution prohibit the placement and retention of a prisoner in solitary confinement solely by reason of a judgment of sentence which includes the death penalty.