

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 75-1350

September Term, 1974  
Civil Action 1462-71

Leonard Campbell, et al.,

v.

Anderson McGruder, Superintendent  
Detention Services, et al.,  
Appellant

United States Court of Appeals  
for the District of Columbia Circuit

FILED MAR 2 1975

Before: Bazelon, Chief Judge; Leventhal and MacKinnon, Circuit Judges

HUGH E. CLINE  
CLERK

## O R D E R

On consideration of appellants' motions for stay and for summary reversal of the District Court's interim order of March 21, 1975, the responses thereto, the supplemental pleadings filed in response to this court's order of April 4, 1975, and the oral argument held on April 25, 1975, it is

ORDERED by the Court that the temporary stay issued April 4, 1975, is continued in effect to permit an orderly remand procedure modified however to make it clear that appellants are obligated to continue to take steps toward compliance with the substance of the March 21, 1975 order. It is

FURTHER ORDERED by the Court that the record in this case is remanded to the District Court for the report and proceedings described in the attached memorandum.

Appellants' motion for permanent stay and summary reversal remain under consideration pending the outcome of the remand proceedings.

Per Curiam

Campbell v. McGruder



JC-DC-0001-0083

M E M O R A N D U M

This challenge to conditions of inmate life at the D.C. Jail has been in litigation since July, 1971. Trial in the matter was held between March 4 and 13, 1975. At the conclusion of testimony, the District Court ordered the parties to submit proposals for interim relief. Following a hearing on March 19, the District Court entered on March 21 the order under review in which he found "that by reason of the overcrowding alone, plaintiffs' constitutional rights are being violated." The order concluded:

"3. That after 15 days from the date of this order defendants shall refrain from housing any pretrial detainee of plaintiffs' class in any cell, room or dormitory where there is an average of less than 48 square feet per person." 1/

Alleging impossibility, the defendants petitioned the District Court for an extension of the deadline for compliance.

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1/ The District Court has characterized the class to which his order applies as "people who were in D.C. Jail held as pretrial detainees with no other charges pending against them and not sentenced on any other charges [and who] can't make bail." (April 1, 1975 hearing Tr. at 55).

After a hearing on April 1, this relief was denied on April 3. The appellants filed motions for stay and summary reversal in this court on April 4, the appellees responded and the same day (hours before the deadline), this court entered a temporary stay to afford it an opportunity to give consideration to these motions. On April 8, this court ordered oral argument on these motions and invited further memoranda from the parties. Upon consideration of the pleadings, memoranda and the argument, held April 25, the court is continuing in effect the temporary stay, holding the motions for permanent stay and summary reversal in abeyance, and remanding the record for further proceedings designed to clarify the central question of the feasibility of compliance with the District Court's March 21 order.

Appellants focus on the practicality of compliance, alleging that it is impossible to abate the violation in the brief period accorded them. The appellees contest this, advancing a number of ways in which compliance could be had. The Court of Appeals is obviously not the ideal forum for the resolution of this factual dispute. The Department of Corrections has taken several steps in the direction of compliance and the District Court is better equipped to evaluate the success of these efforts and explore further measures to alleviate the overcrowding problem.

The District Court's stress on the need for expeditious and meaningful relief is appropriate, but we think it necessary that further attention be given by all involved to the specifics of compliance. We accordingly remand the record for proceedings focused on the practical aspects of compliance.

The Department of Corrections shall file with the District Court as soon as possible (but no later than two weeks from the date of entry of this order) a report and a plan. The report shall describe in detail steps the Department has already taken, alone or in conjunction with others, toward alleviation of overcrowding among the plaintiff class. The report will also list in detail, further actions or problems available to bring about compliance, and the time needed or other conditions precedent to their employment.

We recognize that the matter of compliance is in many respects a question of shared responsibility.<sup>2/</sup> We contemplate that the Department of Corrections will, in its efforts to comply with the Court's order, seek the active consultation and cooperation of others who, although not technically parties to this action, have an important role to play in evolving the solution for the problem presented. Specifically, we contemplate that the Department and its counsel will seek

<sup>2/</sup> The Department observes that to some extent its function is to receive men sent to the jail by others. However, the Superintendent cannot assert a duty under local law that would put him at variance with a Federal decree.

the cooperation of the Chief Judges of the District Court and the Superior Court as well as the United States Attorney and the D.C. Bail Agency in an effort to explore ways to stem or divert the flow of new pretrial detainees into the jail and reduce the number of sentenced prisoners housed there. Furthermore, we presume that consultation with the designees of the Attorney General, who can e.g. expedite removal of Federal prisoners who have been sentenced, with the Mayor's Office, and other agencies of local and Federal government will permit consideration of other avenues for alleviating this temporary problem, and provide the type of cooperation necessary for a collective solution. The dimensions of the problem may require consideration of unusual remedies, perhaps even, e.g. modifications of unused barracks at service installations.

Following the submission of the detailed report by the Department of Corrections, the District Court, having held such proceedings as it deems necessary, shall make specific findings concerning the degree to which compliance has to that point been had, and to the extent that further steps are needed, detailed findings concerning further courses to be pursued.

We reiterate that while the remand proceedings are being conducted in the District Court, the appellants remain obligated to take steps toward compliance with the substance of the March 21 order. Appellants' motions for permanent stay

and summary reversal will pend in this court during the remand proceedings and our consideration of the record as enlarged on remand.

So ordered.