

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

**FILED**

MAR 6 1975

WILLIAM D. RUND, Clerk  
U. S. DISTRICT COURT  
E. DISTRICT OF MO.

BILLY JOE TYLER, et al., )  
 )  
 Plaintiffs, )  
 )  
 UNITED STATES OF AMERICA, )  
 )  
 Plaintiff-Intervenor, ) No. 74-40-C(2)  
 )  
 v. )  
 )  
 RAYMOND T. PERCICH, et al., )  
 )  
 Defendants. )

MOTION OF THE UNITED STATES FOR INJUNCTIVE RELIEF

The United States of America, Plaintiff-Intervenor,  
alleges as follows:

1. On October 2, 1974, this Court found that the Constitutional rights of the plaintiffs had been violated by the conditions of confinement at the City Jail of St. Louis and ordered the closing of that institution.
2. The Court then stayed its order conditional upon the meeting of certain requirements, including a reduction in population and an increase in guard staffing at the Jail.
3. On December 30, 1974, this Court ordered a further increase in guard staffing at the Jail and extended its stay for a further sixty days.
4. The events of the last sixty days, as more fully set forth in our two Reports, demonstrate that the interim staffing level ordered on December 30, is not sufficient to protect members of the plaintiff class from harm.
5. In order to comply with that section of the October 2 Order relating to population, defendants have transferred members of the plaintiff class to the Prisoner Processing Division of the St. Louis Metropolitan Police Department Central Station and to the St. Louis City Medium Security Institution.

6. As more fully set out in our Motion For Further Relief and our Memorandum in Support of that motion, filed February 18, 1975, our First Report, filed January 29, 1975, and our Second Report, filed February 28, 1975, conditions at the aforementioned institutions deprive members of the plaintiff class of the protection of this Court's Orders and the Constitution.

WHEREFORE, the United States prays this Court to enter an order enjoining the defendants, their agents, employees, subordinates, successors in office, and all those acting in concert or participation therewith, from:

1. confining any member of the plaintiff class on any floor of the City Jail of St. Louis where there are not at least six guards at all times, except for such floors and such hours when inmates are locked in single cells for sleeping, where there shall be not less than three guards per floor;

2. assigning, transferring, or holding any member of the plaintiff class in any place of confinement that does not meet the standards set by the Constitution and the Orders of this Court, except for such assignments, transfers and holds resulting from the normal criminal justice process.

Respectfully submitted,

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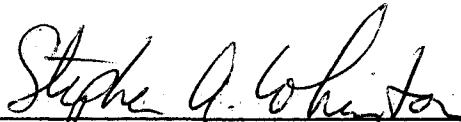
CERTIFICATE OF SERVICE

Copies of the foregoing Motion Of The United States  
For Injunctive Relief have been mailed this 6th day of  
March, 1975 to the following counsel of the parties:

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confinement "for the inmates of the City Jail of St. Louis and the members of the plaintiff class". Order of December 30, 1974, at p. 3 (emphasis added). The Court further ordered the defendants to submit reports relating to incidents at the Medium Security Institution and to afford the United States access to the Medium Security Institution, its inmates, personnel, and records.

During the most recent hearing in this matter, testimony by an expert witness presented by the United States relating to conditions at the Medium Security Institution and the Prisoner Processing Division was allowed over the objections of the defendants.

Finally, defendants themselves have recognized the relevance of conditions at the Medium Security Institution when, on February 21, 1975, they filed a motion under Rule 34, F.R.Civ.P., to inspect and copy "all information secured" by the United States "concerning inspections of the . . . Medium Security Institution" during the most recent stay period.

The record of this case reveals that overcrowding at the Jail had been a consistent and critical problem. Plans considered by the defendants to alleviate this problem included the construction of an annex to the Jail.<sup>1</sup> If that annex had been constructed, there is little doubt that conditions of confinement of inmates housed in the annex would be within the purview of this lawsuit.

As a result of this Court's Orders and decisions made by defendants, the Medium Security Institution has in fact been used as the City Jail annex. The fact that it is located at 7600 Hall Street rather than next to the existing structure

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1. Tallent deposition, 118-121.

is of no legal significance.

This is especially true since the Medium Security Institution is under the supervision and control of defendant Tallent. No additional parties are required to effectuate relief.


The unilateral transfer policy of the defendants should not be permitted to defeat the impact of this Court's injunctive relief. This concept was recognized in a decision of this District Court, Chanel Industries, Inc. v. Pierre Marche, Inc., 199 F. Supp. 748 (E.D. Mo. 1961). This case was initiated in 1958 as a patent infringement action. The Court enjoined the defendants from using certain trademarks in selling their merchandise.

Following this judgment, a new entity was incorporated by persons involved with the original defendants. The new corporation bought the inventory of the original defendant corporation and began selling merchandise with the same trademark. In the context of the original lawsuit, the Court held the original defendants to be in contempt of Court.

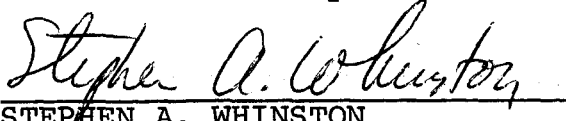
In Chanel, the defendants infringed on the same trademark by creating a new corporation. Here, the defendants infringe on the same constitutional rights of the same plaintiffs by transferring them to another of their institutions. The patent infringement by the new corporation in Chanel was held to be in violation of the original Court order. The incarceration of former Jail inmates at the M.S.I. under conditions condemned at the Jail is likewise a violation of the Orders of this Court.

Respectfully submitted,

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