

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

FILED

JAN 20 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,)
)
vs.)
)
RAYMOND T. PERCICH, et al.,)
)
Defendants.)

No. 74-40-C(2)

MEMORANDUM OF THE UNITED STATES IN OPPOSITION
TO DEFENDANTS' MOTION TO AMEND JUDGMENT

Defendants Tallent and Lark have moved this Court to amend the interim guidelines set out in this Court's Order of December 30, 1974, by reducing from three to two the number of guards required to be on duty on the sixth floor of the City Jail between the hours of 7:00 a.m. and 11:00 p.m. The United States opposes this motion.

The guard force levels set out in this Court's Order of December 30, 1974, were based, in part, on the testimony given at a hearing held on December 23-24, 1974. Defendants presented three witnesses, Mr. Charles Mann, Professor John Goeke and Warden Lynman H. Stamps, to

testify on the number of correctional officers needed to provide for the safety of the inmates at the City Jail. None of these witnesses testified that the requirements for the sixth floor were any different than for the other floors of the Jail housing inmates. 1/ There was no such testimony at any prior hearing. In fact, the only testimony on the specific subject of the sixth floor came from the expert witness presented by the United States at the December 23-4 hearing, that at least three guards were necessary in order to protect the sixth floor inmates from harm. 2/ Accordingly, there is no evidentiary basis on which the motion can be granted.

Furthermore, after only seventeen days of the 60-day stay period, the United States is loathe to consider a reduction in the number of correctional officers at the City Jail. Documents filed to date with this Court under the Order of December 30, 1974, indicate that defendants have not yet achieved the staffing level required by the Court, especially regarding the required

1/ The transcript of this hearing has not yet been made available to counsel for the United States. This statement, therefore, is based on counsel's notes and best recollection of the hearing.

2/ This testimony was given in the context of there being six guards on each of the other floors during the 16 hours in question. These guards would be available for assistance on the sixth floor if required.

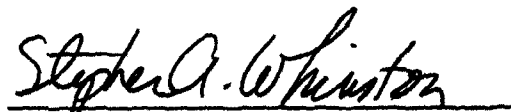
reserve force. To grant defendants' motion at this time would not only endanger sixth floor inmates, but would also further reduce defendants' capacity to respond to incidents throughout the Jail.

The United States urges this Court to deny defendants' Motion to Amend Judgment.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have served copies of the foregoing Memorandum of the United States of America in Opposition to Defendants' Motion to Amend Judgment on counsel of the parties hereto by mailing copies to them, first class, postage prepaid, at the addresses listed below on this 16th day of January, 1975:

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