



JC-MO-010-055

FILED

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EYVON MENDENHALL
U. S. DISTRICT COURT
E. DISTRICT OF MO.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ROBERT E. BULLINGTON, et al.,

Plaintiffs,

vs.

WARDEN MORELAND, et al.,

Defendants.

No. 79-650C(1)

Consolidated With

RONNIE JOHNSON, et al.,

Plaintiffs,

vs.

WILLIAM O'BRIEN, et al.,

Defendants.

No. 76-210C(1)

Consolidated With

WILLIAM J. BRUCE,

Plaintiff,

vs.

ST. LOUIS COUNTY DEPARTMENT OF
JUSTICE SERVICES, et al.,

Defendants.

No. 82-223C(1)

MEMORANDUM

This case is now before this Court on the motions of the parties to accept and approve the stipulation they have reached disposing of several issues in this litigation. In addition, three issues not disposed of by the Stipulation of the Parties are now before this Court for final decision. With respect to the latter three issues, this Court

has the benefit of a Magistrate's Memorandum from William S. Bahn, United States Magistrate.

I. Background:

This case is a class action filed on behalf of all persons who are detained, or will be detained at the St. Louis County Jail, awaiting trial on alleged offenses against the State of Missouri. Plaintiffs' action was brought under 42 U.S.C. §1983. They alleged that certain conditions at the St. Louis County Jail were violative of their constitutional rights. Specifically, they complained of the following:

1. cold food and inadequate portions thereof;
2. substandard medical-dental facilities;
3. overcrowding by excess population;
4. lack of a serviceable law library;
5. failure to provide prisoners with jail rules;
6. lack of cleanliness;
7. prisoner mail from courts and attorneys being censored;
8. strip searches, especially after visits;
9. antiquated visiting booths creating inadequate communication;
10. internal assaults;
11. lack of recreation;
12. length of pretrial detention;
13. and separation of certified minors.

Subsequent to filing the initial complaint, this case was consolidated with Johnson, et al., vs. O'Brien, et al., No. 76-210C(2), in which this Court had previously entered a final judgment and decree; and William J. Bruce v. St. Louis County Department of Justice Services, et al., No. 82-223C(4). John P. Emde and James L. Thomas were appointed to represent plaintiffs. Thereafter, the case was referred to William S. Bahn, United States Magistrate, for his report and recommendation.

Magistrate Bahn ably handled the bulk of this case. He conducted surprise visits at the jail, held hearings and gathered evidence, and prepared a "Report and Recommendation" on plaintiffs' claims. Action on the Magistrate's report, prepared on July 24, 1981, was deferred by this Court pending the outcome of voluntary compliance and settlement negotiations between the parties.

The voluntary efforts of the parties produced a Stipulation of the Parties, a copy of which is attached hereto at Appendix A. This stipulation contained a stipulation of facts and a proposed remedy with respect to each of the above-mentioned complaints, except those with respect to food, internal assaults and length of pretrial detention. Even with respect to the latter three issues, the parties were able to arrive at a stipulation of the facts. See Stip. at 18-19, 26-27, and 28-29. On June 21, 1983, Magistrate Bahn filed a Magistrate's Memorandum, a copy of which is attached hereto at Appendix B, containing his recommendations with respect to the three issues not remedied by the stipulation. In addition, on June 22, 1983, Magistrate Bahn recommended that Case No. 82-223C(1) be dismissed as moot on the ground that the sole plaintiff in that case, William J. Bruce, had been sentenced and removed to the Department of Corrections of the State of Missouri in Jefferson City. As an alternative ground for dismissing plaintiff Bruce's case, Magistrate Bahn noted that "contact visits", the relief Bruce was seeking, were not constitutionally required.

On June 22, 1983, this Court ordered the Stipulation of the Parties and the Magistrate's Memorandum posted in a conspicuous place in the St. Louis County Jail with a notice that written objections thereto were to be filed with this Court within ten (10) days of June 22, 1983. To date only one such objection has been received. It is from Joseph Survillo. His comments are more in the nature of additional complaints about jail conditions than objections to the Stipulation and Memorandum. Basically he complains that there is hair and egg shells in his food, that the jail had contact visits before and should therefore have them again, that he is unhappy with the medical treatment, and

that the visiting booths are antiquated. In addition, he requests that this Court periodically visit and inspect the jail.

On August 12, 1983, the attorneys for the parties appeared in open court and signed the Stipulation. A hearing was held by this Court and it was determined that the Stipulation disposed of all claims of the parties, with the exception of the three mentioned above. In addition, it was determined that, in accordance with the Stipulation, attorneys for the plaintiffs were entitled to a reasonable fee and that the filing of verified petitions and objections thereto were contemplated with regard to fees.

II. Opinion:

A. The Stipulation:

It is the opinion of this Court that the Stipulation prepared by the parties is a fair and equitable disposition of this case. The parties plaintiff and defendants Moreland and McNary are to be commended for their efforts in arriving at a compromise solution to the problems facing the St. Louis County Jail. Moreover, the remedies stipulated by the parties are just and are calculated to effectively reduce or eliminate the complaints of plaintiffs.

Accordingly, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, notice having been given to the parties of the terms of the Stipulation, this Court accepts the Stipulation of the Parties. Further, this Court orders that the remedies agreed upon by the parties shall be carried out. Further, this Court orders that the Stipulation of the Parties fully disposes of the claims of plaintiffs, with the exception of the three issues mentioned above.

B. Unresolved Issues:

As discussed, supra, the Stipulation does not dispose of three issues: food, internal assaults and length of pre-trial detention. The factual bases of these issues have been stipulated to and Magistrate Bahn has given this Court the benefit of his recommendations on these issues in the Magistrate's Memorandum. All that remains is

for this Court to determine whether the facts establish any illegal conduct on the part of defendants and, if so, what remedy is appropriate.

1. Cold Food and Inadequate Portions Thereof:

According to the Stipulation, at 18-19, and the Magistrate's Memorandum, at 2, plaintiffs' complaints with regard to the food served at the jail include, inter alia, hair and egg shells in the food, the food is occasionally cold, religious eating prohibitions are not accommodated and they dislike some of the vegetables served.

Upon consideration of the record, the Stipulation, the Magistrate's Memorandum and the objections thereto, it is the opinion of this Court that, in the words of Judge Bahn, plaintiffs' complaints about the food "border on frivolity". Magistrate's Memorandum at 3. In addition, this Court accepts Magistrate Bahn's conclusion that the diet of plaintiffs at the St. Louis County Jail complies with and meets the standards of Campbell v. Cauthron, 623 F.2d 503 (8th Cir. 1980) and Ahrens v. Thomas, 570 F.2d 286 (8th Cir. 1978). Therefore, this Court holds that the actions of defendants with respect to the food served at the St. Louis County Jail does not fail to meet minimum constitutional standards.

2. Internal Assaults:

Upon consideration of the record, the Stipulation, the Magistrate's Memorandum and the objections thereto, it is the opinion of this Court that defendants have not violated plaintiffs' constitutional rights with respect to the occurrence of assaults by inmates on other inmates. This Court accepts Magistrate Bahn's recommendation that the assaults are not widespread or frequent and that "all reasonably possible is being done to obviate violence." Magistrate's Memorandum at 4. "In the absence of constitutional violations, [courts should] defer to the judgment of state prison administrators." Campbell v. Cauthron, 623 F.2d 503, 505 (8th Cir. 1980) (citations omitted). This Court is convinced that defendants are doing everything possible to

prevent assaults in the jail and that the procedures outlined in the Stipulation, at 26-27, are constitutionally adequate. Therefore, this Court declines to order any remedial measures with respect to plaintiffs' complaints about internal assaults.

3. Length of Pre-Trial Detention:

According to the Stipulation and the Magistrate's Memorandum, at 28-29, the length of pre-trial detention is not a matter within the control or discretion of defendants. It is a matter basically within the jurisdiction of the state courts. In fact, the concentrated efforts of the Circuit Court of St. Louis County in expediting the trial of such inmates have helped immeasurably in reducing the total number of detainees at the County jail.

Because an order against these defendants would not reduce the length of pre-trial detention, this Court accepts Magistrate Bahn's recommendation that there is no reason for this Court to order relief against defendants with respect to the length of pre-trial detention.

C. William J. Bruce v. St. Louis County Department of Justice Services, Inc., No. 82-223C(1):

With regard to Mr. Bruce's claim that "contact visits" should be allowed, this Court accepts the recommendation of Magistrate Bahn that his case be dismissed as moot. Mr. Bruce, individually, has no standing to complain of the lack of contact visits at the St. Louis County Jail when he no longer resides there.

In addition, and as an alternative ground for dismissing plaintiff Bruce's claim, this Court accepts the Magistrate's recommendation that contact visits are not constitutionally required and that their denial is reasonable in defendants' institution.

III. Conclusion:

It is the opinion of this Court that this Memorandum, the Order filed herein this date, the Stipulation, and the Magistrate's Memorandum, fully dispose of all issues and claims in the present litigation.