

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ROBERT E. BULLINGTON, et al.,)
Plaintiffs,)

v.)

WARDEN MORELAND, et al.,)
Defendants,)

No. 79-650C(1)

Consolidated With)
RONNIE JOHNSON, et al.,)
Plaintiffs,)

v.)

WILLIAM O'BRIEN, et al.,)
Defendants.)

No. 76-210C(2)

FILED

JUN 21 1983

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

MAGISTRATE'S MEMORANDUM

Subject case has been under consideration in the Federal District Court for some time. During the pendency of this case, some twenty meetings have been held by the attorneys representing the prisoners in the St. Louis County Jail, the various executives of St. Louis County and this Court. In addition, the undersigned Magistrate has been in frequent contact with representatives of the St. Louis County Circuit Court. The sudden and enormous growth in population of St. Louis County, the resultant increased crime, two bond issues for the building of a new jail, which were submitted to the voters and defeated, are contributing

factors leading to the need to reconcile the differences between the County Jail detainees and their jailors.

In prior conferences and hearings in the courtroom, the Court has narrowed the particular issues concerning the County Jail to twelve in number. These were set out in this Court's report to the District Court in July of 1981. Nine of these issues have been reconciled between counsel for the detainees and the County Jail. This reconciliation is contained in the stipulation of the parties filed with this Court. The undersigned Magistrate recommends that the District Court accept the stipulation as submitted as being both fair and legally acceptable to the Federal District Court.

The parties were unable to agree on Item 2 which is titled COLD FOOD AND INADEQUATE PORTIONS THEREOF.

As previously reported, the reviewing Magistrate, without notice to the jail, viewed and sampled the evening meal. It was tasty, adequate and visibly well balanced. It was not of gourmet standing, nor is such required.

Prisoners testified before this Court that there was occasional hair in the tray; that there was sometimes shells in the eggs; that the food was occasionally cold; that religious eating prohibitions were not accommodated; that slaw, zucchini, broccoli and spinach were disliked by many. Several of these echoes are uttered frequently

in typical American households. None of the complaining witnesses appeared to be anything but well nourished and the complaints bordered on frivolity. The reviewing Magistrate is satisfied that the diet in the St. Louis County Jail comports with the requirements of Ahrens v. Thomas, 570 F.2d 286, 289 (8th Cir. 1978); Campbell v. Cauthron, 623 F.2d 503 (8th Cir. 1980).

INTERNAL ASSAULTS

The litigants in this matter made a realistic evaluation of the internal assault problem in their stipulation, page 26. Internal assaults in jails and penal institutions are an ever present problem. Tension, proximity, frustration, fear of punishment, lack of sex and racial tension contribute to frequent, physical and emotional conflict. The jail in question is antiquated and was built to serve a county one-third its present size.

At the hearing conducted by the reporting Magistrate, one detainee, who wanted to remain anonymous, reported that he had been raped while another inmate watched. He said he reported the incident and the Clayton Police subsequently investigated. He was moved to isolation for his own protection. Bullington himself said he saw a sexual assault in 1977, but did not report the incident because of fear. One Kay Brown, a social worker, testified that she only knew of one assault (the one reported by the anonymous detainee).

thereto, considered the question of defendants' compliance with provisions of the Order entered in Johnson v. O'Brien.

6. On February 3, 1981 Judge Bahn and counsel for plaintiffs made an unannounced inspection and tour of the entire St. Louis County Jail facility; a report of said visit and inspection was made by Judge Bahn to this Court on or about February 6, 1981.

7. Thereafter, on March 12, 1981 and March 27, 1981 Magistrate Bahn, held hearings during which arguments of counsel were heard, stipulations of counsel were made upon the record, evidence was introduced and received, and testimony was heard, received and considered by the Court.

8. On or about the 23rd day of July, 1981 the MAGISTRATE'S REVIEW AND RECOMMENDATION with respect to this action was filed with this Court, and in due course, both plaintiffs and defendants' counsel filed their respective Responses to the Magistrate's report.

9. On or about the 27th day of May, 1982, the Honorable William L. Hungate entered an Order in Cause No. 82-223 C (4), William J. Bruce, Plaintiff, vs. St. Louis County Department of Justice Services, etc, Defendant, pursuant to the terms of which Order said Cause No. 82-223 C (4) was found by the Court to involve issues and factual allegations common to the issues raised in Johnson v. O'Brien and Bullington v. Warden Moreland and further directing and ordering that, pursuant to Rule 42,

order as to the future movement of the detainee. The jailer has no discretion as to whether or not or as to what terms any detainee can be released from his custody. Obviously then, any question of unconstitutional pretrial detention should be directed to the County Court by said inmates requesting acceleration of judicial process. Inasmuch as there is no reason to censure the jailer or require direction in this area, the reviewing Magistrate makes no observations on the length of pretrial detention.

Therefore, the reviewing Magistrate, recommends that the above observations coupled with the stipulation of the parties, be posted in the St. Louis County Jail to invite objection, if necessary, pursuant to 28 U.S.C. §636(b).


UNITED STATES MAGISTRATE

Dated: June 21, 1983