



JC-MS-010-003

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION**

SOUTHERN DISTRICT OF MISSISSIPPI
FILED
MAY 03 1995
J. T. NOBLIN, CLERK
BY _____ DEPUTY

UNITED STATES OF AMERICA,)
)
 Plaintiff)
)
 VERSUS)
)
 FORREST COUNTY, MISSISSIPPI,)
 ET AL)
)
 Defendants)
 _____)

CIVIL ACTION NO.

2:95cv144 PS

CONSENT ORDER

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I. INTRODUCTION

1. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1345.

2. Venue in the Southern District of Mississippi, Hattiesburg Division, is appropriate pursuant to 28 U.S.C. § 1391(b).

3. The United States has met all pre-filing requirements stated in the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997 et seq.

II. DEFINITIONS

4. "Plaintiff" shall refer to the United States of America.

5. "Defendants" shall refer to Forrest County, Mississippi, the Forrest County Board of Supervisors, the Sheriff of Forrest County, along with their agents and successors in office.

6. The terms "inmate" or "inmates" shall refer to one or more individuals sentenced to, incarcerated in, detained at, or otherwise confined at the Forrest County Jail ("the jail").

7. The term "living quarters" shall refer to the inmate living areas on the various floors of the Jail.

8. The term "special needs inmates" shall refer to those inmates who are suicidal, mentally ill, mentally retarded, or any inmates who are a danger to themselves or others. The term "special needs cell" shall refer to those cells in the Jail that are suicide resistant.

9. The term "off-site work center" shall refer to the

minimum security facility operated by Forrest County that is separate from the main Jail, and houses inmates dormitory style who perform work during the day outside the facility.

III. BACKGROUND

10. The Defendant, Forrest County, owns and funds the operation of the Forrest County Jail located in Hattiesburg, Mississippi.

11. In his official capacity, the Defendant, Sheriff of Forrest County, his agents and successors, is responsible for the day-to-day operation of the Forrest County Jail and has custody of the Jail and its inmates.

12. Pursuant to the Civil Rights of Institutionalized Persons Act ("CRIPA"), 42 U.S.C. § 1997 et seq., on May 19-20, 1993, the United States toured the Jail with experts in the field of penology, correctional health care and environmental sanitation. On July 9, 1993, the United States issued a findings letter based upon its investigative tours by experts regarding the conditions of confinement at the Jail.

13. In order to avoid litigation and implement the actions outlined by the United States and its experts, the parties agree to the provisions set forth in this Consent Order.

IV. SUBSTANTIVE PROVISIONS

A. Policies and Procedures

14. The Defendants shall draft a staff manual delineating the general policies and procedure of the Jail. The Defendants shall

ensure that the Jail is operated according to such policies and procedures. The staff manual shall include, but not be limited to, all policies and procedures described in this Order.

15. The Defendants shall distribute the staff manual to every staff member having contact with inmates at the Jail. All staff members must sign a statement indicating that they have read and understand the manual. The Defendants shall review and update the staff manual annually.

16. The Defendant shall draft an inmate handbook delineating the general policies and procedures of the Jail. The Defendants shall distribute the inmate handbook to every inmate within twenty-four hours of arrival.

B. Staffing and Operational Procedures

17. To maintain safety and security within the Jail and to implement the terms of this Order, the Defendants shall, at a minimum, maintain the following staff on all shifts:

- a) one (1) booking officer;
- b) one (1) control room officer;
- c) one (1) shift supervisor;
- d) one (1) officer on the third floor; and
- e) one (1) officer on the fourth floor.

On the day shift, Defendants shall maintain an extra officer to work between the third and fourth floors during periods of inmate exercise or inter-floor activities.

18. In order to maintain the above listed staffing levels,

Defendants must hire sufficient extra staff to cover absences due to illness, vacation or other reasons. Limited employee overtime may be utilized when necessary to meet short-term staffing shortages, but may not be used as a substitute for the requirements of this paragraph.

19. In order to function properly as a supervisor, the shift supervisor shall have supervisory duties only and shall not be given control room duties or duties other than supervisory.

20. Except in cases of genuine emergency, an officer must always be present on the third and fourth floors of the Jail.

21. A female officer must always be on duty to supervise female inmates.

22. The Defendants shall ensure that current and new jail staff members are sufficiently well-trained. Such training shall include, but not be limited to appropriate training to become certified in CPR (cardiopulmonary resuscitation), basic training by Forrest County mental health professionals to recognize special needs inmates and training on how to deal with such inmates, and basic training by a local medical professional on administering medicine and on the most common side-effects of medications commonly administered at the Jail.

23. In order to ensure that current and new jail staff members are sufficiently well-trained, Defendants shall implement an adequate training program. All employees must complete a minimum of 25 hours of in-service training every year. In addition

to the 25 hours in-service training, new staff shall complete an additional 40 hours of pre-service or orientation training before beginning active duty at the Jail. The Defendants may satisfy this pre-service or orientation training through the Correspondence Course for Jailers developed by the United States Department of Justice National Institute of Corrections and instituted by the National Sheriffs' Association in Alexandria, Virginia.

24. The Chief Correctional Officer shall be sent, at County expense, to a training course offered to jail managers by the United States Department of Justice National Institute of Corrections ("NIC").

25. At regular intervals, no less frequent than every thirty minutes, the Jail staff shall conduct a visual and logged inspection of living quarters.

26. The Defendants shall develop and implement written policies and procedures governing checks of the living quarters, bullpens, and dormitory areas in the Jail. The Jail shall maintain records indicating that staff has made the required checks.

27. The Defendants shall develop and implement written policies and procedures for selecting inmates as trusties. These policies and procedures shall include, at a minimum, the following: (a) under no circumstances shall trusties have authority over other inmates; (b) trusties shall not distribute medications; and (c) male trusties shall not have unsupervised access to female inmates.

28. The Defendants shall develop and implement written

policies and procedures concerning the use of chemical agents. All uses of mace and chemical agents shall be documented. Chemical agents may only be used in situations in which an inmate is in imminent danger of harming himself or others and all other reasonable alternative means of control have been tried.

29. The Defendants shall maintain a documented incident reporting system and policies and procedures governing its implementation.

C. Fire Safety

30. In order to make the Jail fire safe, the Defendants shall make the following renovations:

- a) maintain the automatic supervision feature of the fire detection system and institute a preventive maintenance program to prevent the fire safety system from malfunctioning;
- b) remove the excessive lint buildup in the laundry area of the Jail and the off-site work center that presents a fire hazard and prevent its future buildup;
- c) maintain in operating condition all smoke detectors in the Jail;
- d) maintain signs indicating exits and the location of fire extinguishers and maintain existing emergency lights within the Jail so that exits are illuminated at all times in case of emergency;

- e) provide and maintain adequate fire extinguishers throughout the facility;
- f) maintain the emergency generator system in order to provide essential lights, power and communication during emergencies.

31. Defendants shall develop and implement written policies for fire prevention at the Jail that include, but are not limited to, the following:

- a) a monthly fire and safety inspection of the Jail by an administrative staff member properly trained by local and/or state fire officials;
- b) inspection and testing of equipment at least every three months by local and/or state fire officials including the automatic smoke detectors, the individual smoke detectors that are not part of the automatic fire detection system, and the fire extinguishers. State fire officials shall be requested to inspect at least twice during the year.
- c) inspection of the Jail every six months by local and/or state fire officials. State fire officials shall be requested to conduct at least one of the inspections;
- d) an adequate fire evacuation plan certified by an independent outside inspector trained in applying

fire safety codes and posted where correctional officers may use it in the event of a fire;

- e) an emergency plan for natural disasters, power outages, or chemical releases with appropriate training and instruction to officers;
- f) a plan to test and adequately maintain the emergency generator system;
- g) a plan for storing and using all flammable, toxic and caustic materials according to all applicable laws and regulations.

32. The Defendants shall train Jail staff in fire prevention and emergency procedures, including the fire evacuation plan, the use of fire extinguishers, and the self-contained breathing apparatus. Such training shall be properly documented.

33. Fire drills shall be conducted every three (3) months and properly documented. Fire drills shall include all inmates, except when removal of extremely dangerous inmates would compromise the safety of the facility. In such event, actual evacuation of such inmates is not required, although staff charged with supervising such inmates shall be required to execute their roles in the drills.

34. Defendants shall contract with a qualified fire safety professional to review all fire and safety policies and procedures.

35. In order to properly equip and swiftly evacuate the Jail in the event of a fire or other emergency, the Defendants shall

provide a sufficient number of keys readily identifiable. The Defendants shall also store a backup set of emergency keys at a place accessible at all times to officers on duty on all shifts.

36. The Defendants agree that the Jail will comply with the Mississippi state fire codes and regulations. The Defendants must correct any fire safety citations as directed by state and/or local fire officials within a reasonable time. Copies of any reports by state and/or local fire officials along with a description of the corrective action taken, if any, shall be sent to the United States with the status report described in Part V, ¶ 92 of this Consent Order.

37. The Defendants shall institute fire drills, inspect the fire equipment, and post an evacuation procedure in the off-site work center with the same frequency and level of documentation as required for the Jail in this Order.

D. Medical and Mental Health Care

38. The Defendants shall develop and implement adequate written policies and procedures governing access to and delivery of medical services and mental health care.

39. The above stated written policies and procedures governing medical and mental health services shall include an adequately detailed admission screening form. In consultation with a qualified health professional and in accordance with accepted correctional standards, the Defendants shall revise and update, as necessary, the health screening form used to evaluate all inmates

upon their admission to the Jail. The health screening form shall record, at a minimum, the following information upon intake: (1) major medical, surgical, mental health, and dental history; (2) current injuries and illness; (3) current medications; (4) allergy information; (5) personal physician(s), dentist(s), mental health provider(s); (6) questions regarding recent fever, cough, weight loss, night sweats, chest pain, abdominal pain, bleeding episodes, changes in urination or bowel habits including bleeding from either site, and skin rash; (7) mental health screening to include suicide attempt history as well as questions designed to uncover significant depression and/or hallucinations; (8) history of substance abuse; (9) history of tuberculosis, including the date and result of the last TB test; and (10) any other communicable disease.

40. The Defendants must provide in-service training to all appropriate staff in how to complete the screening form.

41. A nurse or other medical personnel must review all medical screening forms with positive responses and such screening forms must become part of an inmate's medical record or chart.

42. The Defendants shall develop a sick call policy and procedure that includes, at a minimum, the following: (1) written sick call request slips; (2) a confidential collection method where the request slips go directly to the nurse with no inmate trusty involvement; (3) a logging procedure to record each request for sick call services; (4) review of inmate requests by qualified

medical personnel Monday through Friday to determine urgency of need to be seen; (5) a sick call clinic held at least once per week conducted by a physician with the nurse in attendance; (6) recording the results of sick call in inmate records in a generally accepted professional format such as the standard subjective, objective, assessment, and plan format. If the health care professional recommends that any inmate needs further medical treatment or review, the Defendants shall promptly arrange and transport the inmate for such treatment.

43. In addition to the current full-time nurse and weekly physician visits to the Jail, the Defendants must continue to maintain on staff or under contract either a part-time (approximately 20 hours per week) physician assistant or nurse in order to provide adequate medical services and to facilitate better communication between the nurse and physician, or increase current physician services to twice weekly. Also, Defendants must either hire or develop and maintain a contractual relationship with a local psychiatrist, psychologist, or psychiatric RN to provide mental health sick call services on an as needed basis.

44. The Defendants shall provide adequate mental health services to inmates. To this end, the local mental health professional established above shall provide reasonable on-call consultation as well as in-person intervention and evaluation, as needed.

45. The Defendants shall continue to provide emergency dental

health care to inmates. Such emergency services shall not be defined only as extractions. Defendants shall also develop and implement a system for evaluating and prioritizing dental complaints.

46. The Defendants must develop and implement an emergency response policy and procedure that specifies the plan for (1) activating an emergency medical system and (2) responding to identified medical or psychiatric emergencies in the Jail.

47. Defendants must plan, implement, and document quarterly emergency medical response drills to test medical emergency response preparedness in such a manner as to insure that each shift is tested a minimum of once annually.

48. Defendants must train and certify all personnel in Basic Life Support Cardiopulmonary Resuscitation (BLS-CPR) with recertification on an annual basis.

49. The Defendants must develop and implement guidelines, subject to physician adjustment, to specify minimum follow-up frequency and minimum evaluation for inmates identified with chronic illness (e.g. asthma, diabetes, hypertension, positive PPD status, AIDS, seizure disorder, etc.).

50. The Defendants must immediately develop and implement a structured TB/communicable disease screening program for all inmates. If a test result for TB is positive, the inmate shall be immediately scheduled for a chest X-ray if required by health care professionals, with appropriate medical care and attention,

including isolation if required.

51. Defendants shall develop and implement policies and procedures regarding HIV and AIDS in conjunction with the local public health department or a physician.

52. The Defendants shall provide essential prenatal care.

53. The Defendants must develop a method for a registered pharmacist or physician or nurse to review within a reasonable period of time all medications inmates bring with them to the Jail to ensure that the prescription is currently valid and corresponds with the prescription label.

54. The Defendants must develop a system to store individual medications that includes a master log of all inmates with physician orders for prescriptions or over the counter medications. Medicine and food shall not be stored in the same refrigerator.

55. The Defendants must develop a written procedure for their medication delivery system that includes a medication administration record system that allows appropriate staff to document the dispersal and receipt of each dose of medication with the inmate's signature. Defendants shall make reasonable effort to have an inmate sign a refusal form when an inmate refuses medications.

56. Officers that dispense medication must be given basic training in the most common side effects of frequently prescribed drugs and actions to take if the officer notices such side effects.

57. Defendants shall develop and implement written policies

for blood and body fluid spills, medical waste disposal, and outdated drug disposal.

58. No inmate shall be denied visitation for requesting medical care or otherwise denied reasonable access to the health care delivery system.

59. At no time shall trustees have access to medical records or control access to medical services.

E. Suicide Prevention

60. The Defendants shall continue to maintain a suicide prevention area with appropriate monitoring equipment and remove or adequately cover the potentially dangerous wire mesh under-ceiling from such area.

61. The Defendants shall screen all inmates for suicide risk and other special needs prior to their admission to the Jail. The Defendants shall revise the Jail's medical screening form to include adequate inquiry into suicide risk.

62. All Jail officers and other Forrest County Sheriff's Department officers who come into contact with inmates shall be trained by a jail suicide prevention expert or licensed mental health professional. Such training shall include, but not be limited to, training in the proper response to a suicide or suicide attempt, including how to cut down a hanging victim and other first-aid measures, identifying and screening inmates, and training concerning high-risk groups and periods for suicide and suicide attempts.

63. The Defendants shall purchase and maintain in an area easily accessible a rescue tool for rapid cutting of fibrous material used in attempted suicides, rubber gloves and a CPR pocket mask.

64. The Defendants shall ensure that physical restraints are only used as a last resort, that they are used only for periods in which the inmate is engaged in self-destructive behavior, and that mental health staff is notified within a reasonable period of time.

65. The Defendants shall develop and implement written policies and procedures on suicide prevention and the treatment of inmates, which shall include, but not be limited to the following:

- a) placing all suicide suspected inmates in appropriate housing;
- b) establishing two levels of supervision of suicide suspected inmates - "Constant Watch" and "Close Watch". "Constant Watch" is reserved for the inmate who is actively suicidal, either by threatening or engaging in the act of suicide. The inmate shall be observed on a continuous, uninterrupted basis (i.e. one-on-one) by an officer who has a clear unobstructed view of the inmate at all times. The officer shall document the "Constant Watch" check every 15 minutes in a suicide watch log. Closed circuit television and/or inmate trustees may supplement but never

substitute for the physical observation of the officer. "Close Watch" is reserved for the inmate who has expressed thoughts of suicide and/or has a prior history of suicidal behavior, but is not considered actively suicidal. The inmate shall be observed by an officer at staggered intervals not to exceed 15 minutes. The officer shall document the "Close Watch" check when the check occurs.

- c) communicating information relating to suicide suspected inmates between and among all Jail staff members and between arresting and transporting officer and Jail staff;
- d) notification by Jail staff to local or state mental health authorities that a suicide suspected inmate has been admitted to the Jail;
- e) to the extent possible, notifying the inmate's family that the inmate has been admitted to the Jail;
- f) assessing all suicide suspected inmates as soon as reasonably possible by a qualified mental health professional to assess the inmate's level of suicide risk;
- g) establishing a mechanism by which Jail staff will communicate with health care providers regarding the status of potentially suicidal inmates or

- inmates who have recently attempted suicide;
- h) establishing a mechanism by which Jail staff will refer potentially suicidal inmates and inmates who have recently attempted suicide to mental health care providers or facilities for placement;
 - i) documenting all attempted and completed suicides and notifying Jail administrators, outside authorities and family members of all attempted and completed suicides;
 - j) establishing follow-up and administrative review procedures for all attempted and completed suicides, including determining what changes, if any, are needed in the Suicide Prevention Program.

F. Bedspace and Overcrowding

66. Defendants shall provide inmates in cell block and dormitory areas with adequate space, including enough storage space for personal articles. Defendants shall not house more than two inmates in each cell except in cases where conditions described in ¶ 68 exist, and except in the women's dormitory area and the temporary holding area.

67. The Jail's population shall not exceed the rated capacity of 172 unless temporary conditions exist beyond the control of the Defendants.

68. If temporary conditions beyond the control of the Defendants cause the Defendants to house more inmates in the Jail

than the population capacity of 172, the Defendants shall initiate efforts to promptly reduce the population back to the established capacity of 172, unless conditions beyond the control of Defendants prevents the reduction to the established 172. The Defendants shall maintain records of daily inmate population.

69. If the State of Mississippi causes Forrest County to exceed the population limit of 172 set forth above in this Consent Order by refusing to accept state inmates from the Forrest County jail in excess of the limit imposed by Gates v. Collier, 349 F.Supp. 881 (N.D. Miss. 1972), aff'd 501 F.2d 1291 (5th Cir. 1974) and its orders, the United States agrees to meet and confer with Forrest County to resolve the issue. Where conditions contrary to ¶ 66, ¶ 67 and ¶ 68 exist because of the failure of the State of Mississippi to remove State inmates from said facility, then in that event, the Defendants shall not be deemed to have willfully violated ¶ 66, ¶ 67 and ¶ 68 of this Order.

G. Plumbing and Lighting

70. The Defendants shall maintain all toilets, showers and sinks in the Jail in operating condition and in sufficient numbers to serve all inmates confined in the Jail.

71. The Defendants must provide hot water in all living quarters, including the women's dormitory area.

72. The Defendants shall maintain adequate lighting in all living quarters.

73. The Defendants shall repair the existing lighting

structures in the third and fourth floor living quarters and install tamper-resistant, jail-type security fixtures over the bulbs and electrical outlets.

H. Food Service

74. The Defendants shall maintain food temperatures at adequate levels at all times.

75. The Defendants must store frozen food in the freezers at 0 degrees fahrenheit and off the floor in all other storage areas.

76. The food preparation equipment and other utensils must be adequately cleaned and sanitized.

77. Defendants must maintain the dishwasher in proper operating condition to insure adequate water temperature to sanitize the dishes.

I. Hygiene and Personal Items

78. The Defendants shall provide inmates with appropriate bedding and an adequate amount of suitable clean clothing. All bedding and clothing shall be kept clean. Defendants shall not rely on inmate family members to provide such clothing.

79. The Defendants shall provide all inmates confined or expected to be confined in the Jail for more than twenty-four (24) or more hours with appropriate personal hygiene articles. Defendant shall provide all female inmates with adequate feminine hygiene supplies upon request.

J. Exercise Opportunities

80. Defendants shall develop and implement written policies

and procedures to ensure that inmates are provided access to adequate space for exercise for a minimum of two (2) hours per day, five (5) days per week.

81. Weather permitting, Defendants shall make reasonable efforts to provide outdoor recreation to inmates held at the Jail.

K. Disciplinary System

82. Written notice of any rules violation, a hearing before a Jail officer not involved in the investigation of the rules violation, and an appeal to the Chief Correctional Officer shall be provided to an inmate prior to any punishment being imposed.

83. No corporal punishment shall be imposed on any inmate at the Jail. There shall also be no group discipline for the actions of a known individual inmate.

84. The terms of this Order relating to safety, crowding, health, hygiene, or food shall not be revoked or limited for any inmate for disciplinary reasons.

L. Access to Courts

85. The Defendants shall provide inmates access to a reasonable amount of paper, envelopes, writing implements, and postage for legal correspondence with attorneys, legal services or assistance organizations, and courts. The Defendants shall provide, free of charge for indigent inmates and at not more than \$.10 per page for others, sufficient photocopying of legal documents to satisfy court procedural filing requirements and to permit the inmate to retain a single copy of each document.

86. Within forty-eight hours after their initial appearance in court, the Defendants shall provide every inmate reasonable opportunity for telephone contact with the inmate's local attorney.

87. At no cost to the Defendants, inmates shall be permitted to purchase and receive law books and other legal research materials. Inmates shall be permitted to keep these materials in their cells, bullpens or dormitories consistent with security and fire safety requirements.

88. The Defendants shall develop and implement policies and procedures to provide inmates with meaningful access to the legal materials contained in the Forrest County law library. Such procedures shall provide inmates with physical access to the law library. Such procedures shall ensure that inmates are provided with sufficient time in the library or provided with sufficient time with the books for meaningful legal research. In the event that an inmate is facing a specific court deadline or statute of limitation, the Defendant shall make reasonable efforts to allow the inmate additional access to legal materials if requested.

89. The Forrest County Courthouse law library shall contain, at a minimum, the following materials:

- a. a leading law dictionary;
- b. a book on criminal procedure, and a book on civil procedure;
- c. a treatise on evidence and trial techniques or practices;
- d. a general guide to legal research;
- e. current civil and criminal procedure rules, including local rules, and mailing addresses of the United States District Court for the Northern and

- Southern Districts of Mississippi, the Mississippi Supreme Court, and all local courts which have jurisdiction over inmates at the Jail;
- f. a current copy of the Mississippi Code provisions, and an index of the Code to assist inmates in specifying the Code sections they need to review;
 - g. a current copy of the Mississippi Digest and the West's Federal Practice Digest, with supplementary pocket parts and volumes;
 - h. a number of self-help "how to" guides for legal issues in the State of Mississippi;
 - i. the business address and phone number of the Forrest County Public Defender's Office;
 - j. a complete listing of the holdings of the law library in the Forrest County Courthouse.

M. Juveniles

90. The Defendants shall remove all juveniles from the Jail and shall not admit any juveniles to the jail except when certified as adults or when otherwise treated as adults as provided by Mississippi law.

V. CONSTRUCTION, IMPLEMENTATION, AND TIMING OF COMPLIANCE

91. Except where otherwise specifically indicated, the Defendants shall implement all provisions of this Order within 180 days of the signing of this Order.

92. Defendants shall, every ninety (90) days following the signing of this Order and until this Order is terminated, file with the Court and, with copy to the United States, a status report stating whether and how the Defendants are complying with the terms of this Order. As part of the status report, the Defendant shall include a report listing the daily population of the Jail and the number of inmates in each cell.

93. The Defendants shall maintain sufficient records to

Agreed to by:

COUNSEL FOR UNITED STATES:

Date April 20, 1995



J. BRAD PIGOTT
United States Attorney
Southern District
Of Mississippi



DEVAL L. PATRICK
Assistant Attorney General
Civil Rights Division



ARTHUR E. PEABODY, JR.
Chief
Special Litigation Section



WILLIAM G. MADDOX
Senior Trial Attorney
U. S. Department of Justice
Civil Rights Division
Special Litigation Section
Post Office Box 66400
Washington, D. C. 20035

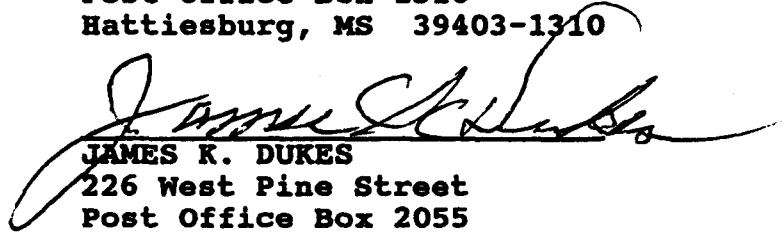
COUNSEL FOR DEFENDANTS,
FORREST COUNTY AND FORREST
COUNTY BOARD OF SUPERVISORS:

Date: January 3, 1995



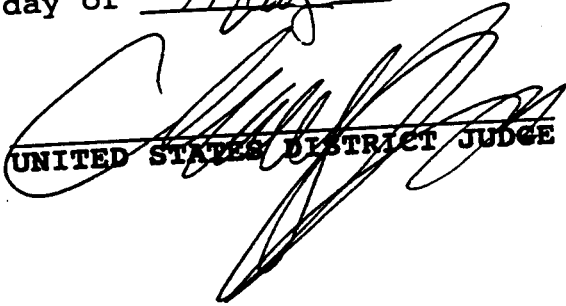
JEFFREY T. HOLLIMON
641 Main Street
Post Office Box 1310
Hattiesburg, MS 39403-1310

COUNSEL FOR DEFENDANT
SHERIFF BILLY MCGEE:



JAMES K. DUKES
226 West Pine Street
Post Office Box 2055
Hattiesburg, MS 39403-2055

It is hereby Ordered, this 3rd day of May, 1995.


UNITED STATES DISTRICT JUDGE