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ON 8-3-89
WILLIAM T. WALSH, CLERK
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

FILED

JUL 28 1989

ESSEX COUNTY JAIL ANNEX :
INMATES, et als., :

Plaintiffs, :

v. :

NICHOLAS AMATO, County :
Executive, et als., :

and :

WILLIAM H. FAUVER, Commis- :
sioner, New Jersey Depart- :
ment of Corrections, :

Defendants. :

CIVIL NO. 87-871

At 8:30
WILLIAM T. WALSH

Hon. Harold A. Ackerman
U.S..D.J.

Robert DelTufo, Special Master
Bennet Zurofsky, Special Master

ORDER FINDING COUNTY DEFENDANTS IN CONTEMPT
AND IMPOSING SANCTIONS FOR VIOLATION OF FIRE
SAFETY REQUIREMENTS

In accordance with Fed. R. Civ.P. 53(e)(2) and for the reasons set forth in the opinion of the Court rendered on July 27, 1989;

It is on this 28 day of July, 1989:

ORDERED that the Report and Recommendations On Contempt Proceedings Against NICHOLAS AMATO, Essex County Executive, RONALD MANZELA, Director, Division of Correctional Services, GERALD LENIHAN, Jail Annex Administrator, JOSEPH SANTIAGO, Director, Dept. of Public Safety, THOMAS GIBLIN, President, Essex County Board of Chosen Freeholders, JOSEPH PARLAVECCHIO, Vice-President, Essex County Board of Chosen Freeholders, and ELLEN DAVENPORT, CARMINE CASSCIANO, SARA BOST, JAMES CAVANAUGH, DELORES BATTLE, ARTHUR CLAY and MONROE JAY LUSTBADER, Members, Essex County Board of Chosen Freeholders, and their successors in office, [hereafter the County defendants], submitted by Special Masters Robert J. Del Tufo and Bennet D.Zurofsky, and filed on July 6, 1989, is hereby adopted, with the exceptions or modifications as set forth in the Court's opinion of July 27, 1989, and incorporated herein, as follows:

1. It is Ordered that the County defendants are hereby adjudged in contempt of the requirements of paragraphs 79 and 80 of the Consent Order signed by the Court on November 23, 1987 regarding written procedures for in-house fire safety inspections of the Essex County Jail Annex and a written fire and emergency evacuation plan.

2. It is Ordered that the County defendants are hereby adjudged in contempt of the requirements of paragraphs 76-78 of the Consent Order signed by the Court on November 23, 1987 due to their failure to install smoke sensory alarms, sprinkler systems, and second exits in Annex housing units in accordance with the requirements of those paragraphs.

3. It is further Ordered that the County defendants shall comply fully with the requirements of paragraphs 79 and 80 of the Consent Order by preparing the required in-house inspection procedures and emergency evacuation plan on or before the expiration of a period of sixty (60) days from the date ~~of~~ this Order. ^{is entered} Failure to perform as so ordered shall automatically result in a further finding of contempt and imposition of a fine of \$1,000.00 per day for failure to provide the required in-house inspection procedures or the required fire and emergency evacuation plan and shall continue thereafter until the particular commitment has been satisfied. Any fines assessed under this paragraph shall be used to retain an expert selected by plaintiffs' counsel to design any particular required procedure which the County defendants fail to provide.

4. It is further Ordered that the County defendants shall comply fully with the requirements of paragraphs 76-78 of the Consent Order by providing functioning smoke sensory alarms, sprinkler systems and second exits as required by those paragraphs on or before the expiration of one-hundred-and-twenty (120) days from the date ~~of~~ this Order. ^{is entered} or, with regard to the requirements for

sprinkler systems and second exits, within that same 120 day period prepare and implement viable alternatives to sprinklers and/or second exits if accepted by plaintiffs' counsel and/or plaintiffs' designated fire safety expert. The opportunity to propose viable alternatives shall not intrude upon plaintiffs' right to relief and shall not excuse non-compliance with the requirements of the Consent Order at the end of the 120 day period. Failure to perform within 120 days as so ordered by completing the installation of smoke alarms, sprinklers and second exits, or to propose and obtain acceptance from plaintiffs' counsel and implement a viable alternative or alternatives, shall automatically result in a further finding of contempt and imposition of fines, as follows:

a. \$10.00 per inmate for each day after August 1, 1989 that the inmate is confined in a housing unit without operating smoke alarms;

b. \$10.00 per inmate for each day after August 1, 1988 that the inmate was or is confined in a housing unit without an operating sprinkler system;

c. \$10.00 per inmate for each day after August 1, 1988 that the inmate was or is confined in a housing unit on a floor without second exits.

5. The fines established in this Order shall be cumulative where an inmate is confined in violation of more than one of the above commitments.

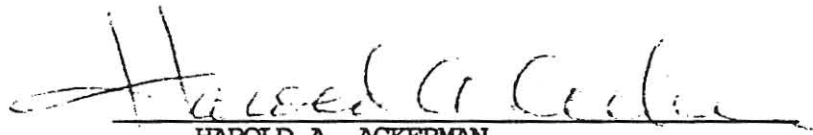
6. The County defendants shall implement a procedure for recording the availability of smoke alarms, so that sanctions for any failure to perform as ordered can be calculated as of August 1, 1989.

7. Any fines assessed for failure to provide smoke alarms, sprinkler systems or second exits shall be used by an expert selected by plaintiffs' counsel to arrange for any construction necessary to effectuate specific

performance of the requirements of paragraphs 76, 77 and ^{or} 78 of the Consent Order pertaining to the provision of these fire safety measures.

8. Any fines assessed by this Order shall be paid by the County defendants to the Court in a lump sum for past violations within two (2) weeks of the ^{compliance is due under the terms of} date ~~set by~~ this Order for imposition of the fines and, for future violations, on a weekly basis payable beginning the first Monday after the expiration of sixty (60) days from the date ^{compliance is due under the terms} of this Order.

9. Plaintiffs and the County defendants shall submit to the Special Masters, no later than 30 days from the date of this Order, and again, no later than 90 days from the entry of this Order, reports on the status of the County defendants' compliance with the Court's orders. The Special Masters shall be and are hereby authorized to conduct hearings, to report to the Court, and to make recommendations concerning the County defendants' compliance with the court's orders.


HAROLD A. ACKERMAN
U.S.D.J.