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# United States Court of Appeals FOR THE SECOND CIRCUIT

Each motion must be accompanied  
by a supporting affidavit (Local Rule 10)

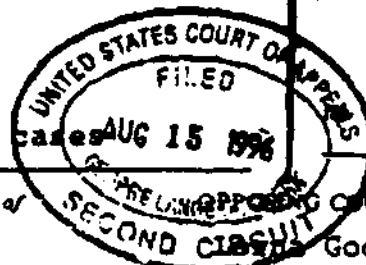
96-7957

JAMES BENJAMIN, et. al.

v.

MICHAEL JACOBSON, et. al  
and related cases

Use short title



## NOTICE OF MOTION

Stay Pending Appeal

MOTION BY: (Name, address and tel. no. of law firm and of attorney in charge of case)

John Boston  
Legal Aid Society  
Prisoners' Rights Project  
15 Park Row  
New York, NY 10038 (212) 577-3530

OPPOSING COUNSEL: (Name, address and tel. no. of law firm and of attorney in charge of case)

Goodman  
Assistant Corporation Counsel  
100 Church Street  
New York, NY 10007  
(212) 788-0999

Has consent of opposing counsel:

A. been sought?  Yes  No

B. been obtained?  Yes  No

Has service been effected?  Yes  No

Is oral argument desired?  Yes  No

(Substantive motions only)

Requested return date: August 27, 1996

(See Second Circuit Rule 27(b))

Has argument date of appeal been set:

A. by scheduling order?  Yes  No

B. by firm date of argument notice?  Yes  No

C. If Yes, enter date: \_\_\_\_\_

Judge or agency whose order is being appealed:

Judge Harold Baer, Jr.; SDNY

### EMERGENCY MOTIONS, MOTIONS FOR STAYS & RELINQUISHING PENDING APPEAL

Has request for relief been made below?  Yes  No

(See F.R.A.P. Rule 8)

Would expedited appeal eliminate need for this motion?  Yes  No

If No, explain why not: Judge Baer's stay of his order is only in effect until 3/27/96

Even an expedited appeal would not be heard

Will the parties agree to maintain the before that date status quo until the motion is heard?  Yes  No

The order being appealed from is stayed until the motion's return date.

Plaintiffs request a stay of the district court's July 23, 1996 order vacating consent decrees and supplemental orders in these cases, until this Court has decided the merits of plaintiffs' appeal of the district court's order.

Complete Page 2 of this Form

By: (Signature of attorney)

*John Boston*

Signed name must be printed beneath

John Boston

Appearing for: (Name of party)

James Benjamin, et. al.

Plaintiffs-Appellants

Appellant or Petitioner:

Plaintiff  Defendant

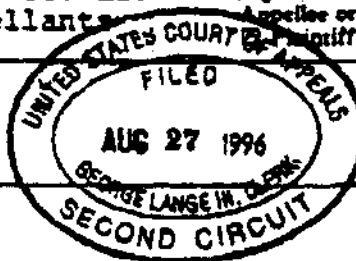
Appellee or Respondent:

Plaintiff  Defendant

Date

8/15/96

ORDER



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IT IS HEREBY ORDERED that the motion be and it hereby is granted pending argument of the appeal; the motion may be renewed to the panel that will hear the appeal. The appeal shall be expedited, with appellants' main brief due on or before September 25, appellees' brief due on or before October 23, and appellants' reply brief due on or before November 6. The appeal may be heard as early as the week of November 11.

Our decision!

*Thomas J. Martell*

8/27/96

*J. Daniel Mahoney*

Benjamin v. Malcolm



JC-NY-002-004