

1990 WL 212911

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United States District Court, S.D. New York.

James BENJAMIN, et al., Plaintiffs,
v.

Allyn R. SIELAFF, et al., Defendants.
Ernesto MALDONADO, et al., Plaintiffs,
v.

William CIUROS, Jr., et al., Defendants.
DETAINEES OF THE BROOKLYN HOUSE OF
DETENTION FOR MEN, et al., Plaintiffs,
v.

Allyn R. SIELAFF, et al., Defendants.
DETAINEES OF THE QUEENS HOUSE OF
DETENTION FOR MEN, et al., Plaintiffs,
v.

Allyn R. SIELAFF, et al., Defendants.
Iola FORTS, et al., Plaintiffs,
v.

Allyn R. SIELAFF, et al., Defendants.
Guy Zepth AMBROSE, et al., Plaintiffs,
v.

Allyn R. SIELAFF, et al., Defendants.

Nos. 75 Civ. 3073 (MEL), 76 Civ. 2854 (MEL), 79
Civ. 4913 (MEL), 79 Civ. 4914 (MEL), 76 Civ. 101
(MEL) and 76 Civ. 190 (MEL). | Dec. 14, 1990.

Attorneys and Law Firms

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Opinion

OPINION

LASKER, District Judge.

*1 The defendants have requested that the judgment to be entered in this case modify the compensatory damage award approved in our opinion dated November 30, 1990 by making the fines payable to a bail fund rather than to individual inmates who are held in non-housing areas for more than twenty-four hours. Having carefully considered this proposal, I have concluded that a bail fund would not be an appropriate remedy for the contempt in this case.

Although sanctions in the form of payments to a bail fund rather than to individual inmates have been imposed in some cases as a remedy for violation of court orders governing jail and prison conditions, those cases involved large scale deficiencies such as overcrowding which have a generalized impact on all inmates in the facility but no specific impact on particular individuals. *See, e.g., Palmigiano v. DiPrete*, C.A. No. 74-0172 P (District of Rhode Island) (cited in Plaintiffs' Memorandum of Law in Support of Plaintiffs' Motion to Hold Defendants in Contempt for Violation of the Court's May 3, 1989 Order).

On the other hand it appears that in cases involving particular injury to individual plaintiffs as the result of a violation of a court order, appellate courts generally require that the injured plaintiffs be directly compensated for that injury. As the Court of Appeals for this circuit explained in *Vuitton et Fils S.A. v. Carousel Handbags*, 592 F.2d 126, 130 (2d Cir.1979),

Generally, the sanctions imposed after a finding of civil contempt serve two functions: to coerce future compliance and to remedy past noncompliance.... So far as the first of these functions is concerned, the district judge, sitting in equity, is vested with wide discretion in fashioning a remedy.... By contrast, once the plaintiff has proved that he has suffered harm because of a violation of the term of an injunction, compensatory damages are appropriate.

... The district court is not free to exercise its discretion and withhold an order in civil contempt awarding damages, to the extent they are established. (citations omitted)

See also, Canterbury Belts Ltd. v. Lane Walker Rudkin, Ltd., 869 F.2d 34, 39 (2d Cir.1989) (quoting *Vuitton*); *Badgley v. Santacroce*, 800 F.2d 33, 39 (2d Cir.1986) (ordering district court to impose compensatory damages payable to each individual inmate for further violations of order relating to jail conditions); *Parker v. United States*, 153 F.2d 66, 70 (1st Cir.1946) ("If complainant makes a showing that respondent has disobeyed a decree in complainant's favor and that damages have resulted to complainant thereby, complainant is entitled as of right to an order in civil contempt imposing a compensatory fine ... The court has no discretion to withhold the appropriate remedial order."); *McComb v. Jacksonville Paper Co.*, 336 U.S. 187, 191 (1949) ("[T]he grant or withholding of remedial relief is not wholly discretionary with the judge.... The private or public rights that the decree sought to protect are an important measure of the remedy.").

Benjamin v. Sielaff, Not Reported in F.Supp. (1990)

*2 Moreover, the establishment of a bail fund might well undermine the bail decisions made by state court judges. When judges set bail, they are obligated to do so on the basis of the resources available to the defendant or his sureties. If judges are not aware of the existence of a bail fund, they may be setting bail based on inaccurate assumptions about the resources available to the defendant. If they are aware of such a fund, they are left uncertain as to whether their bail rulings will be effective.

Finally, the administrative difficulties involved in the creation and monitoring of a bail fund make the proposal impractical. If payments to a bail fund were to be substituted for payment of compensatory damages to individual inmates, the bail fund would have to be used to benefit the individual inmates who have been injured by

the violations. Creating a new bail fund administered by the Office of Compliance Consultants or VERA would unnecessarily distract those agencies from the vital work in which they are currently engaged. While it might be possible to channel the fines through some pre-existing bail fund, such as the one operated by Catholic Charities, it would be unfair and unduly disruptive to expect any agency to assume the burden of ensuring that the fines are distributed appropriately.

Accordingly, the defendant's request to modify is denied.

It is so ordered.