

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

TERRY D., ROMONDO P., DAVID L.,
ROGER V., BYRON C., JEFFERY H.,
LAURA C., REBECCA G., by their
attorneys and next friends,
Steven A. Novick and Richard L.
Weldon, individually and on behalf
of all other persons similarly
situated,

Plaintiffs,

vs.

L. E. RADER, et al.,

Defendants,

STATE OF OKLAHOMA, ex rel.
DEPARTMENT OF INSTITUTIONS,
SOCIAL AND REHABILITATIVE
SERVICES,

Intervenor - Defendant.

No. CIV-78-0004-T

FILED

NOV 2 1982

HERBERT T. HOPE
CLERK, U. S. DISTRICT COURT
Herbert T. Hope
DEPUTY

INTERIM ORDER

On this 2nd day of Nov., 1982, this cause comes before the Court upon plaintiffs' motions for preliminary injunctive relief, said matters having been remanded to the District Court by the United States Court of Appeals for the Tenth Circuit in an order dated October 15, 1982. This Court entered an order on October 20, 1982 setting plaintiffs' motions for hearing on November 2, 1982.

On March 10, 1981, plaintiffs filed a Motion for Preliminary Injunction to halt the use of all metallic restraint devices and to prohibit the restraint practice known as hogtying, where hands and feet are restrained together behind a child's back.

On March 4, 1982, plaintiffs sought a temporary restraining order and preliminary injunction to prohibit the confinement of children in facilities where fire, health and safety violations were in existence.

On August 16, 1982, plaintiffs filed a Motion for Preliminary Injunction seeking to enjoin the use of solitary confinement cells at the Boley State School for Boys and the L. E. Rader Intensive Treatment Center (ITC), and to prohibit the imposition of solitary confinement at any institution in excess of three hours or for punishment.

These motions are before the Court for disposition pursuant to the partial remand order from the United States Court of Appeals for the Tenth Circuit.

Terry D. v. Rader & Oklahoma



J1-OK-001-003

The defendants neither admit nor deny the allegations contained in plaintiffs' motions for preliminary relief. Prior to the scheduled hearing on said motions, plaintiffs and defendants have agreed that in lieu of said hearing, the following interim order should be entered. The State Attorney General does not agree to the entry of this order.

Upon consideration of the agreement of the parties and being fully advised in the premises, the Court finds that it has jurisdiction to enter the agreed order and that the following interim order should be entered as to defendants, Oklahoma Public Welfare Commission, L. E. Rader, their agents, employees, successors in office and all persons acting in concert with them. For the purpose of this order, the parties have agreed, and the Court finds that the institutions affected by this order include Boley State School for Boys, Oklahoma Children's Center (Taft), Whitaker State Children's Home, Central Oklahoma Juvenile Treatment Center (COJTC), the L. E. Rader Intensive Treatment Center and the L. E. Rader Diagnostic and Evaluation Center.

IT IS THEREFORE ORDERED AND DECREED THAT:

1. For the purpose of this Order, solitary confinement is the involuntary removal of a child from contact with other children by confinement in a room including the child own's room or cubicle, when locked or when the child is otherwise restrained from leaving, except during normal sleeping hours.

2. Solitary confinement shall be prohibited in excess of three hours or for the purpose of punishment. In the event that a child is not sufficiently under control to be returned to the general population following a period of solitary confinement, he may be held in the segregation cottage for a period not to exceed 24 hours, including the period of solitary confinement. The use of consecutive periods of solitary confinement to evade the spirit and purpose of this order is prohibited.

3. Solitary confinement may be imposed only upon the prior approval of the institutional superintendent or the administrator on duty, and only in emergency situations where a child is out of control and poses a serious and immediate physical danger to himself or others after less restrictive methods of control have failed; provided that, this order shall not limit the authority of direct child care staff to impose room or cubicle

restriction as a "cooling off" period pursuant to Standard 9360 of the American Correctional Association Standards for Juvenile Training School and Services.

4. A child in solitary confinement shall be immediately released as soon as he is sufficiently under control so as to no longer pose a serious and immediate physical danger to himself or others.

5. Children in solitary confinement shall receive all necessary and appropriate psychological and medical services. The provision of these services shall not be solely dependent upon the child's request for such services.

6. Rooms and other enclosures used for solitary confinement shall be fully padded with fire resistant material, shall contain at least 80 square feet of floor space, and shall provide adequate lighting, heat and ventilation for the health, safety and comfort of the child.

7. All incidents of solitary confinement shall be entered in a master log containing the information required by Standards 9371 and 9375 of the American Correctional Association Standards for Juvenile Training Schools and Services.

8. The use and conditions of solitary confinement shall comply fully with the American Correctional Association Standards for Juvenile Training Schools and Services, to the extent that such Standards are not inconsistent with this Order.

9. The use of the solitary confinement cells that do not meet the standards set forth in this order is prohibited.

10. The use of mechanical restraints or shackles of any kind is prohibited for the purpose of punishment. The use of metallic restraints or shackles is prohibited. The restraint practices of binding feet, attaching hands and feet, as in hog-tying, and attachment to objects or fixtures are prohibited.

11. Padded leather wristlets and a leather waistband may be employed only in the following circumstances:

- a. In solitary confinement rooms in extreme emergency situations where a child is totally out of control and is a serious and immediate physical danger to

himself but only upon the prior approval of a physician and after less restrictive methods of restraint have failed.

- b. In transporting a child to or from an institution when there are reasonable grounds to believe, based upon overt acts, that the child is a serious escape risk or a threat to the public safety. The use of mechanical restraints to move a child within an institution is prohibited.

12. All incidents of mechanical restraint shall be entered in a master log containing the child's name, the date and time of restraint, a detailed statement of why restraints were applied, the time the child was released from restraints and the name of the authorizing physician.

13. The use of mechanical restraints at all institutions except COJTC shall fully comply with the American Correctional Association Standards for Juvenile Training Schools and Services, to the extent that such Standards are not inconsistent with this Order.

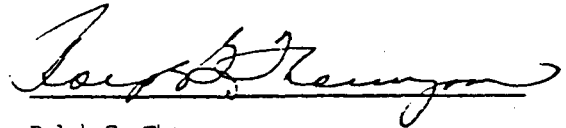
14. The use of mechanical restraints at COJTC shall fully comply with the Joint Commission on Accreditation of Hospitals, Consolidated Standards for Child, Adolescent and Adult Psychiatric Facilities, 1981, to the extent that such Standards are not inconsistent with this Order.

15. All institutions shall fully comply with the 1981 Life Safety Code of the National Fire Protection Association and the American Correctional Association Standards for Juvenile Training Schools and Services pertaining to fire safety. The defendant shall request and submit to unannounced fire safety inspections performed monthly by the State Fire Marshal's Office until full compliance with these standards is achieved.

16. All institutions shall fully comply with all federal, state and local health and sanitation codes and with the American Correctional Association Standards for Juvenile Training Schools and Services pertaining to food service, sanitation, safety and hygiene. The defendants shall request and submit to unannounced health and sanitation inspections performed monthly by the State Health Department until full compliance with these codes and standards is achieved.

17. In order to monitor compliance with this Order, plaintiffs' counsel and their authorized representatives, including expert consultants, shall have reasonable access to any institution, all class members, all institutional and state office staff, and any files and records pertaining to class members, all in accordance with the September 4, 1980 Order of this Court.

Dated this 24 day of Nov., 1982 at Oklahoma City, Oklahoma.

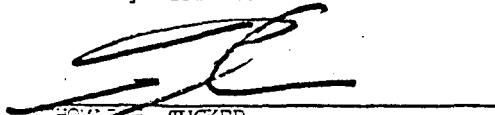


Ralph G. Thompson
U.S. District Judge

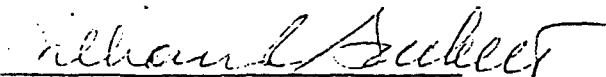
APPROVED:



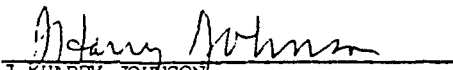
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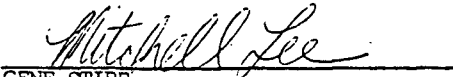
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