

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

FEB 23 1995

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

JAMES W. McCORMACK, CLERK
By: M. Virginia
DEP. CLERK

ERNEST SMITH AND
JIMMY RUDD

PLAINTIFFS

V.

NO. PB-C-93-731

ARKANSAS DEPARTMENT OF CORRECTION, ET AL

DEFENDANTS

DECLARATORY JUDGMENT AND INJUNCTION

Upon the basis of the Findings of Fact and Conclusions of Law set forth in the Court's Memorandum Opinion of even date herewith,

THE COURT CONSIDERS, ORDERS AND ADJUDGES:

1. That plaintiff Rudd is entitled to a Declaratory Judgment upon his Complaint, and said Judgment is hereby entered, declaring that defendants have been, and are, staffing and operating the open Barracks 5, 6 and 8 at the Cummins Unit in violation of his rights under the Eighth Amendment to the United States Constitution.

2. That said plaintiff is further entitled to the following injunctive relief: defendants shall, starting no later than February 28, 1995, station at least two Correction Officer I's (or higher ranking officers), inside open barracks 5, 6 and 8 on each of the twelve hour night shifts and shall make commensurate staffing assignments during the twelve-hour day shifts, depending upon the population of inmates actually located in such barracks at any time during said daylight shift. These requirements are

Smith v. Norris



PC-AR-006-002

in addition to the staffing and procedures presently employed, but defendants may use their own judgment in deciding whether to use the newly assigned officers stationed inside the barracks to perform the "Counts" and other duties heretofore assigned to other officers. Defendants shall document and record all entries and exits of any of its personnel into or out of the open barracks.

IT IS FURTHER ORDERED that defendants file a report with the Court, copy to plaintiffs' counsel, detailing its compliance with the Court's orders on or about May 1, 1995, on or about August 1, 1995, and on or about December 1, 1995. If no report or challenge is filed setting forth any violation of the Court's orders, before December 31, 1995, then and in that event, the injunction granted hereby shall expire without further action by the Court, otherwise to continue in full force and effect. After the expiration of the injunction, the Court assumes that defendants will continue to staff and operate the open barracks in compliance with the Constitution.

The defendants will also make the reports concerning its quick-response procedures, its enhanced communication procedures, its shakedown and contraband procedures with respect to the security of open Barracks 5, 6 and 8 (as discussed in the Court's Memorandum Opinion) on or about May 1, 1995.

Dated this 23rd day of February, 1995.


UNITED STATES DISTRICT COURT