

FILED

at 9:45 A.M.

JUN - 5 1981

[Signature]
Deputy Clerk, U.S. District
Middle District of Georgia

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

JAMES DANIELS, ET AL.,

Plaintiffs,

v.

WALTER ZANT, DAVID EVANS,

Defendants.

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CIVIL ACTION NO. 79-110-MAC

CONSENT DECREE AND ORDER

This action was brought pursuant to 42 U.S.C. § 1983 in May, 1979, by James Daniels, who was proceeding pro se. On July 20, 1979, James Daniels, by counsel, filed an amended complaint on behalf of himself and Plaintiff class, inmates who are now or will be under death sentence incarcerated at Georgia Diagnostic and Classification Center (GDCC) in a wing referred to as G-House. This lawsuit was certified as a class action on October 2, 1979. The Defendants in this action are Walter Zant, Warden of GDCC, and David Evans, Commissioner of the Georgia Department of Offender Rehabilitation (DOR). The United States was appointed by this Court as amicus curiae on September 10, 1980.

The amended complaint alleged that the totality of conditions of confinement in G-House was unconstitutional. The amended complaint alleged that the limited exercise and freedom of movement and restriction of privileges, such as visitation, were unconstitutional; that there existed unconstitutional deprivations in medical care; that incarceration and confinement in G-House was unconstitutional.

Defendants assert that none of the Plaintiffs' constitutional rights have been violated and that Defendants have acted reasonably and in good faith toward Plaintiffs. The parties have consented to the entry of this decree and have agreed that this decree does not constitute evidence or admission by any party with respect to any issue of law or fact.

This decree disposes of all issues raised in the amended complaint in this action. However, by entering into this decree, Plaintiff class members are not barred from pursuing any individual claims. The only claims against Defendants settled by this Consent Decree and Order are claims for declaratory and injunctive relief of a general nature.

I. CLASSIFICATION

A. Inmates under death sentence (class members) shall undergo the same diagnostic and classification processing at GDCC as all the other inmates going through diagnostic processing at GDCC, with the exception that inmates under death sentence will not be given labor battery tests. This diagnostic processing shall include a medical exam; an initial interview; a sixteen PF test; a culture fair I.Q. test or other test if appropriate; Wide Range Achievement Test (WRAT) and a final interview, which will include a criminal history, social history, drug and alcohol abuse history, summary of behavior problems, and interviewer's impression. An individualized determination as to each class member concerning his cell assignment, exercise shift assignment, and activities will be made based on considerations of security, medical needs, and psychological needs.

B. Class members shall be assigned to ~~G~~-House or a unit where other inmates under death sentence are housed. In exceptional cases, the warden at GDCC has the discretion to house a class member in an area where inmates not under death sentence are housed.

C. All current class members shall be initially classified within four months of the date of this decree. Each new arrival at GDCC who is under death sentence shall be initially classified within sixty days of his arrival at GDCC.

D. If the class member refuses to participate in all or part of the diagnostic processing, the individualized determination, classification, and review shall be made on the basis of whatever information is available.

II. MENTAL HEALTH SERVICES

A. Constitutionally adequate mental health care shall be provided to class members. Within ninety (90) days of the entry of this decree, the services of a qualified mental health professional shall be made available to class members at least eight (8) hours per week. A qualified mental health professional is defined as: (1) a practicing licensed psychiatrist; (2) a Ph.D. clinical psychologist; (3) a psychiatric social worker (master's degree) with at least two years of clinical experience; or (4) a registered nurse with a master's degree and with at least two years clinical experience in the area of psychiatric nursing. If within ninety (90) days of the entry of this decree, Defendants have made a good faith effort to hire a qualified mental health professional as defined

sional, a person who has completed a master's degree in psychosocial work, nursing or counseling and has three years of experience in the provision of professional therapeutic services to the mentally ill and/or mentally retarded.

B. The qualified mental health professional shall initially interview and assess the mental health treatment needs, if any, of all current class members and thereafter of all new class members upon their arrival to GDCC. The information obtained by the mental health professional shall not be divulged outside the Department of Offender Rehabilitation unless authorized by the class member.

C. Only trained personnel shall administer prescribed psychotropic medications to class members. Records shall be maintained to reflect whether the medication was taken and, if not, the reason for the class member's not taking the medication.

III. OUT OF CELL TIME

A. Each class member shall be allowed out of his cell a minimum of thirty-two hours per week.

B. Outdoor exercise shall be provided no less than six hours per week for each class member, weather permitting, unless a State holiday falls during that week. If a State holiday falls during that week, as many class members as possible shall receive six hours of outdoor exercise, weather permitting, that week and no class member shall receive less than three hours outdoor exercise, weather permitting, that week.

C. Correctional staff shall make reasonable efforts to insure that class members are assigned to and allowed on exercise shifts only with other class members who are deemed compatible. Inmates shall not be required to lock down when

D. Class members under disciplinary restriction shall be provided a minimum of seven hours per week of physical exercise or recreational activities outside of the cell and within the cellblock. This provision does not apply to the sanction of disciplinary isolation.

IV. VISITATION

Can't add until every 3 months after you've added somebody - wait 3 mos. you add again

A. Each class member shall be permitted to have on his approved visitation list his parents, wife or girlfriend if the inmate is single, children, grandparents, brothers and sisters aunts and uncles, nephews and nieces, and brothers-in-law and sisters-in-law.

(1) If the class member receives no visits from persons in these categories within four months of the date of this decree or within four months subsequent to his entry at GDCC, he may request a maximum of five persons, in addition to those listed above be placed on his visitation list. These persons shall remain on the visitation list as long as the class member does not receive regular visits from persons listed in the above categories.

My inmate gets visits from these people, he cannot add other persons to list.

not to be confused with

Special visits or Special visits average of about 2 per month state regular

(2) If the class member has no relatives listed in the categories above, he may immediately request that five persons not in these categories be placed on his visitation list.

(3) The warden has the discretion to disapprove the above mentioned requests only if...

*Can visit 3 out of the 4
Free exp. ~~the~~ Fri. Sat. Sun. Mon. holidays
Can visit like Fri, Sat, & Mon.*

B. Visiting hours shall be from 9 a.m. to 3 p.m. on Saturdays, Sundays and holidays. Any individual on the approved visiting list may visit one weekend day per week and one State holiday per week if there is a State holiday that week.

(1) If this visitation schedule results in such extensive usage so as to create overcrowding of the available visitation facilities at GDCC, the warden may modify such visitation hours upon prior notification to counsel for the plaintiffs and amicus and the Court. However, visitation hours shall in no event be less than those currently provided (Saturday, Sunday, and holidays, 9 - 11:30 a.m. and 2 - 4 p.m.). Documentation of visits to class members shall be maintained by Defendants.

(2) Visitation privileges may not be restricted for more than fourteen days as a sanction for a minor disciplinary offense.

C. Special visitation shall continue to be provided.

Special visitation is (1) a visit by a person on class member visiting list at a non-regularly scheduled time or (2) any other non-legal or non-clergy visit by a person who is not listed on a class member's visiting list. Special visitation will be provided primarily to those inmates who are not receiving regular visitors or to persons on the approved list who are out-of-state. The warden or his designate has the

*Special
Visitation
based on
approval of
2 visits
per month
during*

(1) A request for a special visit must be made in writing by the inmate and arrive at the warden's office at least seven days prior to the date requested for the special visit. A record of all such requests and action taken shall be maintained by the institution.

(2) The warden or his designate shall approve or disapprove these requests and notify the inmate in writing within forty-eight hours of receipt of such request. If the visit is disapproved, the reasons for the disapproval shall be given in writing to the inmate.

(3) If the special visit is approved, notice shall be given to the appropriate staff responsible for visitation concerning the terms of the special visit at least twenty-four hours prior to the visit.

V. ACCESS TO THE COURTS

A. Two days a week a person trained in the use of the law library shall go to G-house a minimum of two times in the morning and two times in the afternoon in order to transport law books between the GDCC law library and G-house.

B. A list of books in the GDCC law library shall be posted in each cellblock in G-house and in the G-house law library. Class members also shall be permitted to make written requests for law books to the correctional counselors. Any law book

to their attorneys of record so long as the attorney initiates the request during normal working hours at GDCC. Class members agree to keep the warden informed in writing of their respective attorneys of records.

VI. RELIGIOUS SERVICES

A. GDCC chaplains shall continue to provide periodic visits to G-house for purposes of providing individual religious counseling or study to all class members who request such.

B. Group religious services, study, counseling, or discussions shall be provided by GDCC chaplains on a periodic basis in G-house to inmates who request such services and who have been approved by the classification committee. The primary criterion to be considered by the classification committee is whether or not the class member has demonstrated the ability to interact reasonably safely and peaceably with other inmates and staff, based on documented institutional behavior. No more than six inmates may participate at any one time in the group services, study, counseling, or discussions. If the inmate's request is disapproved, he shall not be precluded from seeking and obtaining periodically reconsideration of the disapproval by the classification committee.

VII. MAIL

C. If an inmate requests in writing that his attorney of record be placed on his receipt of funds list, Defendants will place that attorney on the inmate's receipt of funds list. If his attorney of record is placed on the receipt of funds list, each class member shall inform his attorney that if the attorney mails a money order to the inmate, the attorney should clearly mark on the outside of the letter that it is non-privileged correspondence.

VIII. RECREATION

A. Defendants shall provide television sets in all H-house cellblocks. Plaintiffs have the obligation to avoid deliberately damaging or destroying the televisions.

B. A listing of all materials in the non-legal GDCC library shall be posted in each cellblock in H-house and on the cart which transports books to H-house. Class members may check out books from the library by making written requests to the appropriate staff member who will be designated by the warden. The library cart containing assorted paperback books will be sent to H-house two times per week.

C. The GED, adult basic education, and literacy reading shall continue to be provided to class members who express interest in such programs.

D. Indoor recreation equipment in H-house shall consist at a minimum of tables and stools in each cellblock and adult

F. A class member may make a request in writing to the classification committee for the opportunity to pursue a hobby or vocational skill within H-house so long as the pursuit of this hobby or activity is reasonably in accordance with institutional security interests. The classification committee shall entertain such requests when made and make recommendations to the warden concerning such requests. An inmate shall not be precluded from seeking and obtaining periodically reconsideration of the disapproval of the request.

IX. COMPLIANCE

A. All provisions of this decree shall be implemented upon its entry unless otherwise specified herein.

B. Upon entry of this decree, Defendants shall explain its terms and provide a copy of it to all staff and other personnel assigned to H-house. Prior to the assignment of new personnel to H-house, Defendants shall instruct such staff or personnel concerning the provisions of this decree.

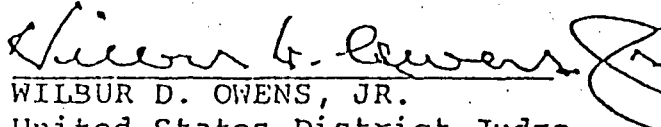
C. For one year following the entry of this Consent Decree and Order, a report shall be submitted by Defendants every ninety days to the court and to counsel for Plaintiffs and for amicus United States. These reports shall address every provision of the decree. A summary of all results of classification proceedings shall be included.

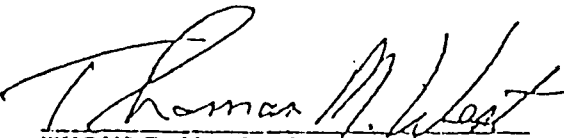
D. Access to the Plaintiff class upon twenty-four (24) hour written notice shall be provided to counsel for amicus United States and Plaintiffs during regular working hours.


X. JURISDICTION

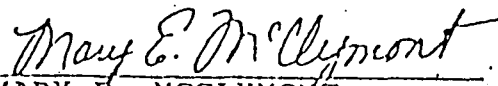
Jurisdiction of the Court shall terminate one year subsequent to the date this decree is entered unless at such time a motion has been filed challenging Defendants' compliance with this decree and the Court has ruled to extend its jurisdiction for purposes of hearing and disposing of said motion. If the jurisdiction is continued by this Court and no order disposing of the issues raised by the motion has been entered within eighteen months of this Consent Decree and Order, the jurisdiction of the Court will automatically Terminate.

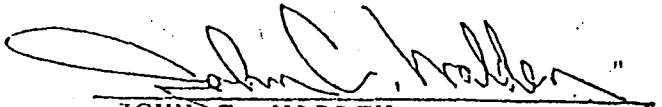
SO ORDERED, this 5th day of June, 1981.

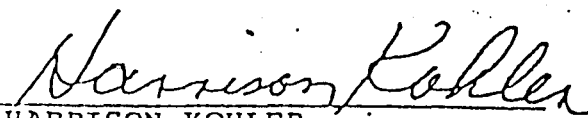

WILBUR D. OWENS, JR.
United States District Judge


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