



PC-IA-005-001

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF IOWA

CHRISTOPHER ROSS, PRESTON DUNCAN,
VINCENT MONTAGNER, PLETKA,
JOHN B. BRYANT, THEODORE
MILLO

Plaintiffs,

vs.

DAVID J. SCURR, Warden of the
Iowa State Penitentiary,
HAROLD A. FARRIER, Director
of the Division of Adult
Corrections; JAMES J. MENKE,
Security Director of the
Iowa State Penitentiary;
MARK MENKE, Property Officer
of the Iowa State Penitentiary;
and Unknown Employees of the
Iowa State Penitentiary,

Defendants.

CIVIL NO. 80-214-A

CONSENT JUDGMENT,
ORDER AND DECREE

This is an action brought by American Indian prisoners of the Iowa State Penitentiary against the Warden and other state prison officials for injunctive and other relief for alleged violations of the First, Fifth, Sixth and Fourteenth Amendments to the United States Constitution. All of the Plaintiffs seek to restrain Defendants from denying them their right to the reasonable exercise of their native Indian religion and an order requiring Defendants to grant Plaintiffs access to a traditional Indian sweat lodge at the prison for religious services. In addition, Plaintiff Ross sought an order to require Defendants to return certain legal and religious papers, together with decesses. Defendants have denied that they have violated any constitutionally protected rights secured to the Plaintiffs.

Based upon the pleadings, orders and all proceedings heretofore had herein, the parties have agreed to the entry of the within Consent Judgment, Order and Decree. Defendants, in so agreeing, do not admit or concede that they have acted unconstitutionally.

Based upon the foregoing and being otherwise fully advised of the premises,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendants and their successors in office shall:

1. Within 30 days of the date of this Order, Defendants will conduct a search for Plaintiff Ross' legal and religious materials as specified in Paragraph 20 of the Amended Complaint, and return to Plaintiff Ross all such materials which may be located. Plaintiff Ross shall, within thirty (30) days of this Order, provide to Defendants an itemized listing of the materials alleged to be lost. If any such materials cannot be located, Defendants shall reimburse to Plaintiff Ross the monetary value of such materials, such reimbursement not to exceed fifty (\$50) dollars, and such reimbursement to be a full and complete resolution of this claim.

2. Within 60 days of the date of this Order, Defendants will permit the construction of a sweat lodge at the Iowa State Penitentiary in a location designated by the Warden after consultation with the Plaintiffs or their representatives.

3. Any special materials necessary for construction of the sweat lodge will be provided by the Plaintiffs or their representatives. After the sweat lodge is constructed Defendants will provide additional support services and materials, to the degree commensurate to what is provided for other religious services at the prison, as may be appropriate for the observance of the sweat lodge religious service.

4. The Warden and his delegates shall have the same authority to schedule reasonable weekly access to the sweat lodge on a year-round basis as he has with respect to any other prison activity or religious observance or ceremony.

5. The sweat lodge shall at all times be subject to observation and inspection by security personnel on the same basis as any other religious observance or ceremony at the institution; such personnel shall, however, conduct themselves with respect for the use of the sweat lodge in the same manner they would during the course of any other religious observance in the institution.

6. Defendants may temporarily suspend usage of the sweat lodge at any time it presents a threat to prison security; in making this determination, Defendants shall apply the same criteria they would with respect to other religious observances at the institution.

7. None of the parties to this litigation shall apply to the Court for modification, interpretation or enforcement of this judgment or for any other order in relation to enforcement of the judgment until after notice and consultation as hereinafter provided:

- (a) The party wishing to apply for relief or his authorized representative shall, at least 30 days prior to the application, give written notice to other affected parties or their representatives of the relief for which he intends to apply, specifying the nature of the event, occurrence, or circumstance upon which such application will be based.

(5) The recipient of said notice shall reply in writing to the party giving notice within 15 days after receipt, and the parties or their representatives shall then meet to discuss the problem.

All other claims raised in the Amended Complaint are hereby dismissed with prejudice, with the exception of the Plaintiffs' right to apply to the Court for reasonable attorneys' fees, costs and expenses.

DATED: This 13 day of March, 1981.

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W. C. STUART, CHIEF JUDGE
SOUTHERN DISTRICT OF IOWA

APPROVED AS TO FORM AND CONSENT:

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