



PC-ID-003-005

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

U.S. COURTS  
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NOEL PUENTE GOMEZ, et al.,	)	
	)	
Plaintiffs,	)	Case No. CIV 91-0299-S-LMB
	)	
v.	)	
	)	
JAMES C. SPALDING, et al.,	)	AMENDED JUDGMENT
	)	
Defendants.	)	
	)	

The Court, having reviewed the proposed remedial plans submitted by the respective parties, enters the following Amended Judgment which incorporates the language of the original Judgment dated March 22, 1999 (Docket No. 609).

After reviewing the proposed remedial plans, the Court concludes that neither is entirely necessary or appropriate. The Court had previously expressed concern regarding the failure of IDOC to implement a policy designed to prevent unlawful actions relating to the transfer of inmates. However, the Court has no intention of overseeing prison inmate transfer operations to the extent requested by Plaintiffs.

Rather, the Court concludes that instead of implementing an all-encompassing plan for prospective conduct, injunctive relief will be granted which defines the deficiencies in the present transfer policy and will prohibit specific actions in the process of selecting inmates for prison transfers. To this extent, the Court is satisfied that the relief granted herein is narrowly tailored to prevent future deprivation of constitutional rights and unlawful retaliatory conduct to the identified individuals involved herein.

This action, having been duly tried and a decision rendered, based upon the

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Findings of Facts, Conclusions of Law, Memorandum Decision and Order entered on March 16, 1999, and as amended by Order dated June 17, 1999,

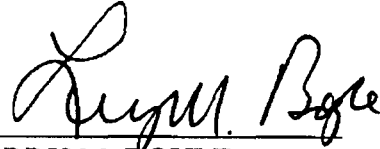
IT IS HEREBY ORDERED AND ADJUDGED that Plaintiffs be awarded a Declaratory Judgment decreeing that Defendants have engaged in unlawful retaliation against members of the class of inmate Plaintiffs while such inmates were engaged in the pursuit of federally guaranteed rights. However, prospective class-wide injunctive relief is denied because the retaliatory conduct occurring was not sufficiently pervasive to warrant relief.

However, individual injunctive relief is appropriate and will be granted to the extent that Defendants shall be required to expunge all references to the Disciplinary Offense Report issued to Plaintiff Alfredo Roman which the Court determined was retaliatory, as well as to amend and clear the inmate institutional files of inmates Thomas Sanger and Carl Shively of all record, notation, history or referencing to their firings which the Court has determined and declared were unlawful and retaliatory, and also to ensure that these inmates suffer no adverse consequences relating to their employment and pay level to which they may be entitled in the future.

Further, inmate Plaintiffs Lee Hays, Bob Jones and Wayne Olds shall be awarded prospective individual injunctive relief to the extent that Defendants are prohibited from allowing individual officers to influence or attempt to influence any transfer coordinator or any other IDOC staff member given the responsibility to determine which inmates are to be transferred or to move these inmates as a result of the exercise of their federally guaranteed rights. Accordingly, Defendants shall not be allowed to transfer these specific inmates unless a transfer list has independently been created based upon purely objective criteria. Once a transfer list of inmates who qualify for objective consideration is compiled by the institution, then subjective considerations may be taken into consideration as to whether these inmates, i.e. Hays, Jones and Olds, are to be included in any transfer. However, the ultimate decision to transfer these specific inmates may not

be premised in any degree upon their individual activity in accessing the courts. Accordingly, Defendants are strictly prohibited from using subjective considerations to add these specific inmates to a transfer list when they did not qualify for the transfer based upon purely objective considerations.

SO ORDERED this 17<sup>th</sup> day of August, 1999.

A handwritten signature in black ink, appearing to read "Larry M. Boyle". The signature is written in a cursive style with a large initial "L" and "B".

LARRY M. BOYLE  
UNITED STATES MAGISTRATE JUDGE

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the attached document was mailed to the following named persons:

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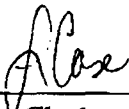
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Dated: 8/17/99

CAMERON S. BURKE, CLERK

By   
Deputy Clerk