

CIRCUIT COURT OF ILLINOIS

FIRST JUDICIAL CIRCUIT

ALEXANDER COUNTY

STEPHEN L. SPOMER
CIRCUIT JUDGE

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2000 WASHINGTON AVE.
CAIRO, ILLINOIS 62914

April 17, 2003

Ms. Reona Daly
Assistant Attorney General
1001 East Main Street
Carbondale, IL 62901

Mr. Alan Mills
Uptown People's Law Center
4404 North Broadway
Chicago, Illinois 60640

Re: People vs. Tyshawn Ross
No. 03-MR-27

Dear Counselors:

This case should have been settled. Both sides have expended much time and energy. The parties have acted like kids on a playground staring at each other waiting for the first one to blink.

The hunger strike which precipitated this lawsuit was initially based upon a complaint about a paralegal. The evidence showed that later the defendant was also protesting the fact that the prison was wrongfully refusing to provide him with a diet commensurate with his religion. The defendant claims that he will begin eating immediately if and when he is given a vegetarian diet. There are two related issues before the court. First is the plaintiffs' request for injunctive relief pursuant to the standards articulated in *People vs. Millard*, 335 Ill.App.3d 1066. Second is the defendant's counterclaim seeking an order requiring the plaintiff to provide him with an alternative diet.

Regarding the plaintiff's complaint, the *Millard* case is applicable to our facts, notwithstanding that the defendant claims his freedom to practice his religion is being compromised. The defendant is actually protesting to change a prison policy. Therefore, the plaintiff's request for injunctive relief is granted. In considering the defendant's counterclaim the plaintiff correctly points out that the doctrine of sovereign immunity bars the circuit court from

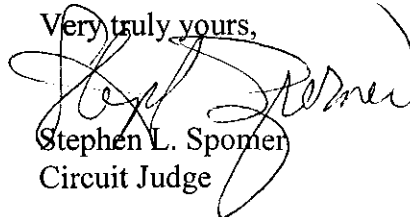
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entering a mandatory injunction directing the state to take specific action (*Brando v. Department of Transportation*, 139 Ill.App.3d 798). This notwithstanding, because of the unique facts presented in this case, the court *sua sponte* amends the prayer for relief in the counterclaim and finds that the unwritten six-month waiting period imposed on inmates desiring to resume their religious diet is arbitrary and bears no relation to any legitimate or compelling interest of the state. Therefore, instead of ordering the state to provide a certain meal, the court holds this policy void.

Since these parties acknowledge that this case presents the likelihood of an emergency, I am filing this letter with the clerk and requesting that both sides submit proposed orders as soon as possible.

Very truly yours,

A handwritten signature in black ink, appearing to read "Stephen L. Spomer", is written over the typed name and title.

Stephen L. Spomer
Circuit Judge

SLS:kdk

cc: Circuit Clerk