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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA LOUISIANA

NOV 19 1998

ROBERT H. SWILMULL, CLERK
BY: MF DEPUTY

MICHAEL LLOYD COMBS, ET AL
VS/
CORRECTIONS CORP., OF AMERICA, ET AL

CIVIL ACTION
No. 95-2029

See P

MOTION TO ENFORCE AND EXECUTE

Plaintiff(s) present this Motion to Enforce and Execute along with documentation (See Attached) showing a systematic form of intimidation by certain Security Officers at Winnfield Correctional Center and contempt toward this Honorable Courts Ruling dated August 26, 1997 in above entitled Civil Action.

Plaintiff(s) seek enforcement by way of a master or monitor to supervise compliance, requiring inspections, record keeping, or reports to the courts; or any other action that makes sense as a way of ensuring compliance, See: Powell v. Ward, 487 F. Supp. 917, 935 (S. D.N.Y.) (1980); Jones v. Witenberg, 73 F.R.D. 82,85 (N.D. Ohio 1976).

Plaintiff(s) seek Contempt of Court Order against Correctional Officer (herein C/O) Van Michelle for intimidation by stopping Native American Sacred Prayer Ceremony of July 22, 1997 and ordering us to return to our dormitorys. See Attached Statement in Support No. 7.

Against Captain Lasion for ordering Native American participants to return to their dormitorys before Sacred Prayer Ceremony was over. See Attached Statement in Support No. 8.

Against Lt. Triplet (now a Captain) for destroying Sacred Tobacco which is used in the Sacred Pipe. See Attached Statement in Support No.13.

Against C/O Southall for refusing to let Plaintiff Michael Combs to attend Sacred Prayer Ceremony. See Attached Statement in Support No. 16.

Against the Chaplain for indifference, See Attached Statement in Support No. 20.

Against C/O Smith for stopping Prayer Ceremony to count. See Attached Statement in Support No. 21.

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filed

Plaintiffs show in the attached statements of evidence that the lapse of about one (1) year passed between the last intimidation tactic and the renewal with Captain Michael Trent on November 9, 1998. Since the plaintiffs are in fear of playing the Sacred Drum the evening Prayer Ceremony can not be performed and has not been performed since November 9, 1998. This has caused the Native American Community mental duress and anguish for not being able to Pray to the Creator as other religions are afforded.

Civil Contempt has a two-fold purpose: (1) to compensate the prevailing parties for losses or damages caused by the other's non-compliance, and (2) to coerce the derelict person into compliance with the original order. See: McComb v. Jacksonville Paper Co., 336 U.S. 187, 191, 69 S.Ct. 1531 (1966) ("There can be no question that courts have inherent power to enforce compliance with their lawful orders through Civil Contempt.")

FILED *Order*
USDC, WESTERN DISTRICT OF LA
ROBERT H. SHEMWELL, CLERK
DATE 4.28.99
BY CRD

PRAYER

WHEREFORE, Plaintiff(s) pray this Motion to Enforce and Execute be deemed acceptable to this Honorable Court and that relief requested be forthcoming.

RESPECTFULLY SUBMITTED,

Michael Combs
Michael Combs No. 117011
WCC/ Ash B-1
P.O. Box 1260
Winnfield, Louisiana
71483-1260

ORDER
Please this motion
as the motion
calendar please.

ROH
26 April 99

COPY SENT:
DATE: 4/28/99
BY: CRD
TO: Combs
Thompson
Kelley
Lancaster
Voshell

Simpson
Corkern
Beanel
FAL, Jr.
M. Lefoux

Against Lt. McCoy for cursing inmates while at Prayer.
See Attached Statement in Support No. 23.

Defendants, employees of Corrections Corp. of America are in Contempt for violating line No. 4 of this Honorable Courts Order stating: "To restrict the free exercise of religious practice by prisoners at WCC only when it is reasonably related to a legitimate penological concern."

This Honorable Court has the inherent equitable power to make additional orders where a judgement has not achieved its purpose. See: United States v. United Shoe Machinery Corp. , 391 U.S. 244, 248-49, 88 S.Ct. 1496 (1968); King-Seeley Thermos Co. v. Aladdin Industries, Inc. , 418 F. 2d 35 (2dCir.1971).

This power is further supported by Rule 60 (b), which provides for the modification of orders "upon such terms as just," and by the All Writs Act, which permits federal Courts to "issue all writs necessary or appropriate in aid of their respective jurisdictions, See: 28 U.S.C. § 165 (a), including orders "necessary or appropriate to effectuate and prevent frustration of orders the court has previously issued," See: United States v. New York Telephone Co. 434 U.S. 159, 172, 98 S.Ct. 364 (1977).

Plaintiff(s) invoke all three of these powers in asking this Court to enforce its prior orders. Under the Court's equitable powers and Rule 60 (b), FRCP, a Court may modify its prior orders as well as enforce them, See: System Federation v. Wright, 364 U.S. 642, 647-48, 81 S.Ct. 368 (1966).

As of November 9, 1998 Native American Religious participants are in fear of using the Sacred Drum. On the above date Captain Michael Trent said the drum is too loud. This drum since August 22, 1997 has been played the same without any problem arising with Security personnel. This Drum must be played during Pipe/Prayer Ceremony.

Captain Michael Trents actions only show further ongoing intimidation at the whim and fancy of whoever is on duty. Plaintiff(s) ask eight (8) million dollars for being denied to practice their Native American Religion as per Court Order and the dictations of their religious beliefs which for the past year has shown no threat to any penological interest.

STATEMENTS IN SUPPORT

1. July 17, 1997: Native American Call-Out was not called.
2. July 18, 1997: Native American Call-Out announced at 6:40 P.M.. The Call-Out is scheduled for 6:30 P.M.. We were not allowed onto the ceremonial prayer area (Medicine Wheel) until 6:50 P.M.. Sacred Prayer Ceremony was not performed due to lack of time.
3. July 18, 1997 I, Michael Combs was informed by our Peace Keeper, Rob Dennis that an inmate Reese, who is Muslim, receives supplies from the Chaplains office such as
4. July 20, 1997 Sunday, Native American 8:00 A.M. Call-Out was not called in Ash Unit. Correctional Officer Johnson told Sub-Chief Loni Thompson that the Call-Out was called. Loni Thompson was at the bars to his tier waiting for the Call-Out which was never called in Ash Unit.
5. July 20, 1997 11:00 A.M. I, Michael Combs, Donald Lancaster (since released) and Rob Lennis (released also) were called into the Countroom Security Office after The Native American Prayer Ceremony. We had to explain what we were smoking in the Birch Hobby Shop where we hold Sacred Teaching/Religious Ceremony. Captain Coleman, Lt. McCoy, Lt. Trent and Lt. Canerday were all inquisitive as to what we were doing, Captain Coleman told me (Michael Combs) that he and the others present had never been briefed as to what we were doing. I explained we were in compliance with the Federal Court Ruling and everything we were using was approved for us to use. This shift should have been briefed as to our Call-Out.
6. July 21, 1997: Van Michelle the Control Room operator ran participants of the Native American Religion off of the Sacred Medicine Wheel before Count time which is at 7:30 P.M.. Our Call-Out is from 6:30 P.M. to 7:30 P.M.. which "sticks" us out for count-time which means we are to be counted where we are. Van Michelle interrupted a Sacred Ceremony. This is the first time our Call Out has been interrupted in this manner, all other times we

STATEMENT IN SUPPORT

Continued

were counted in the area where we hold prayer.

8. July 23, 1997 time 7:24 P.M.: Captain Laison disrupted our Sacred Prayer Ceremony at our Medicine Wheel. He said we had been at our Prayer Ceremony for two hours and not to argue with him. He also said the officer working the countroom/control center had the callout logged down. The time allotted to the Native American Religion is from 6:30 P.M. to 7:30 P.M. Since the count time is at 7:30 P.M. we are counted where we are and return to our dorms when the count is clear. We had not finished our prayers when this Captain in a rude manner interrupted the Ceremony by ordering us back to our dorms. With the 6:30 P.M. to 7:30 P.M. allotted time it takes twenty to thirty minutes to prepare the sacred Herbs and the Smudging Herbs which is used in purification; also preparing the Sacred Pipe. There is no way two hours elapsed from 6:30 P.M. to 7:30 P.M.. This is the time given to us (not the original 3 hours) by the Chaplain for our Prayer Ceremony which is held seven days a week in the afternoon. Captain Laison gave no reason for stopping and interrupting the Prayer Ceremony. The Chaplain gave us from 6:30 P.M. to 7:30 P.M., and we were always counted where we were and when count cleared we returned to our dorms. If count time is at 7:30 P.M. and other religious functions, which are in progress as well as our are counted at this time, then there is no reason why we shouldn't get the same treatment as the other religions...We are still not being given the original three hours of daily prayer as the court ruling says "before October 1995."
9. August 28, 1997: Before being allowed into the Sacred Medicine Wheel Area, all members were shook down. This procedure is not used on the Christians or the Muslims here at Winn Correction Center.

STATEMENT IN SUPPORTContinued

10. August 31, 1998: Sunday Call-Out for Native American was not called until 8:11 A.M., Callout is scheduled for 8:00 A.M. (every Sunday, this has since been changed to Saturday morning) and policy states callouts are to be announced at fifteen minutes before callout time. Jarrod Procell a Native American participant was not allowed out of his unit until 8:20 A.M.. And was told the callout was not called. As of 8:30 A.M. only 7 out of 15 members have arrived.
11. September 3, 1997 I, Michael Combs talked to Mr. Garifo who is Chief of Security. Security has changed the Native American callout. Captain Walker has changed the time from 6:30 P.M. to 6:00 P.M.. This was found to be the sole responsibility of the Chaplains through evidentiary hearing testimony of Warden Michael Phillips. When I told Lt. Fadler of this finding I was told quote, "We don't give a damn about any Court Order from the Federal Court. (Loni Thompson, witness).
12. September 3, 1997, Callout is now to be uniformly called at 5:45 P.M.. As of this date: December 8, 1997 it has not.
13. September 4, 1997: Native American participant Jarrod Procell was stopped on the walk while on his way to Sacred Prayer Ceremony at the Sacred Medicine Wheel. Lt. Triplet confiscated Jarrod Procell's Sacred Tobacco which was to be smoked in our Sacred Pipe and Lt. Triplet told Jarrod Procell he could not take any tobacco to the callout. Tobacco is Sacred amongst all Native Americans of tradition. And is smoked during prayer. The Court Ruling says we can have tobacco amongst other herbs. Lt. Triplet also scattered documents Mr. Procell was studying on Native American Spirituality and Culture, which Mr. Procell had to chase down the walk.

STATEMENT IN SUPPORT

Continued:

14. September 4, 1997: I, inmate Michael Combs tried to talk to Captain Walker the shift supervisor about the incident with Jarrod Procell the same day it happened. I was told by Captain Walker that he didn't have time to discuss anything with me.
15. September 9, 1997: After the evening Prayer Ceremony all 16 participants on this day were shook down. This is becoming an on going thing. We understand Security can do this. But the Christians and the Muslims are not shook down after their services .
16. September 5, 1997: Correctional officer Southall refused to let me, Michael Combs out of Ash Unit for Sacred Prayer Ceremony.
17. September 8, 1997: Kairos, a Christian fellowship meeting and Islam is called at 12:45 P.M.; this is in compliance with policy of calling callouts at 15 minutes before respected callout time. Native American is called late or not at all.
18. September 7, 1997 Time 7:56 A.M. Sunday morning: Pipe Keeper cannot get ceremonial items to prepare for Ceremony because the callout is not called timely. Pipe Keeper and his assistant are approved to get Sacred items 15 minutes before callout time which is supposed to be at 8:00 A.M. every Sunday morning as per October 1995 Ruling from Court.
19. September 7, 1997 Callout not called until 8:10 A.M..
20. September 15, 1997: I, Michael Combs was called to the Chaplains office. The Chaplain asked me if the Native American Religious program was going O.K., I told the Chaplain we were having problems getting the callout for 6:00 P.M. called at 6:00 P.M. in all of the dorms. Members were coming a half hour late or not coming at all due to their dorm officers not calling the callout.

STATEMENT IN SUPPORTContinued:

The Chaplain assured me this problem would be rectified, as of this date it has not. The Chaplain also allowed me, Michael Combs, and Michael Tipton (since dropped out) to eat early with the diabetics at 5:00 P.M. so we could get our ceremonial items early to set up for the Prayer Ceremony. They did not tell me, Michael Combs that Security did not approve of this plan for us to eat early until Wednesday the 17th of September..

It is a fact that inmates who are not diabetic eat at this time and there appears to be no legitimate penological interest in denying us to eat early so as to prepare for our evening Prayer Ceremony, since we only have one hour at this date in time and it takes 20 minutes to prepare, giving us little time in comparison to other Religious functions.

21. The underlying animosity toward the Practitioners of the Native American Religion came to a head on November 4, 1997. On this date the Programs Manager, Mr. Robert Morgan stated that he was "Programs Manager and that made him the Chaplains boss, and the Chaplain was going to do what he, Mr. Morgan told him to do." Mr. Morgan then told me, Michael Combs, to quote, "take that damn Court Order and stick it up your ass."
22. December 8, 1997 Time 4:25 P.M.. Our callout has been changed again by Security from 6:30 P.M. to 7:30 P.M. to 4:00 P.M. to 6:00 P.M.. Security is doing the Chaplain's job, see Michael Phillips testimony. On the above date and time correctional officer Smith came out to our Prayer Ceremony while it was in progress and ordered us to stop the ceremony so he could count us. We were a total of 11 men sitting in a compact circle passing the Sacred Prayer Pipe and Praying. The ceremony circle had been broken by Mr. Smith and was ruined. This ceremony has always taken place during count time with no problems to date. We are counted when we come to the callout and Security knows how many of us are at

Continued:

the Sacred Circle as we are locked in a fenced in yard with barbed wire. I asked Mr. Smith who told him to do this and he gave me conflicting answers. First he said the Captain (Canaday) told him to stop our drum, break up our Sacred Circle, put us in a line and count us (this was never done prior to October 1995). Second he said the lady working the courtroom Van Michelle told him to stop us. Our Pipe/Prayer Ceremony has never been stopped while in progress, to do so is desecration. And even during count time we were counted where we sat without any disruption of our Ceremony. As stated we are counted as we come into the fenced in area we have been given. This Ceremony is from 4:00 P.M. to 6:00 P.M.. Captain Canaday told Lt. Moore that we will have to start our ceremony after the 4:30 P.M. count, and it takes one-half hour for the count to clear. So, from 4:00 P.M. to 5:00 P.M. takes away one hour of our allotted time. They do not interrupt the Muslims while they are at Prayer nor the Christians. Our entire Prayer Ceremony was ruined on December 8, 1997 at 4:25 P.M. (note: count time isn't until 4:30 P.M.) and the Sacred Circle broken. We cannot start over once Sacred Prayers and offerings are made, then in the middle of the Ceremony we are told to stop the drum and line up for count. We have always been counted where we sat, for we are in a circle. I'm sure this was nothing but harrassment. Attached to this incident is an affidavit affirming the incident by all members present.

23. March 5, 1998 : an administrative Remedy Procedure was filed against Lt. McCoy for saying to Native Americans during Sacred Prayer Ceremony, quote: "you son-of-a-bitches, you fuck with me and I'll shut you down." This comment was un solicited.

We the undersigned, under penalty of perjury.
Do hereby declare that the incident on 12/8/97
which occurred at Winn Correctional Center, concerning
the Native American Prayer Ceremony is true
and correct.

1. Michael Combs #117011 ASH C-1
2. Allen Stillwell #132560 ASH C-1
3. Ronald Cook #341146 Birch D-2
4. Cyprien LeCombe #377386 Elm D-1
5. Jon Wainwright #223117 Ash-A-1
6. Loni Thompson #127719 Ash-B-2
7. John Tyler Myers #112055 ELM C2-8
8. Gary Bridger 357948 EB2
9. D.E. Waller 320688 BIRCH A2-16
10. Michael Hill 119514 Birch D-2
11. Robert Keith King 173081 Ash P-2

STATEMENT IN SUPPORT

Continued:

24. November 9, 1998: On this date at 5:10 P.M. while in the middle of the Native American Prayer Ceremony, Captain Michael Trent walked into the Sacred Area desicrating it and told the inmate playing the Sacred Drum that: "That durm is too loud, quit playing it." From the above date until the present the Native American Community are in fear of playing this Sacred Drum therefore they cannot conduct their Sacred Prayer Ceremony because of Captain Trents verbal order .
25. November 11, 1998: On this date while at the Sacred Prayer area and still not able to hold Sacred Prayer Ceremony, participants noticed Correctional Officer Craig video taping participants. A couple of nights prior to this date participants noticed Security photographing participants at the Sacred Prayer Area.