

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

FILED
DISTRICT OF NEBRASKA
AT _____
MAY 24 1976
William L. Olson, Clerk
By _____ Deput

INDIAN INMATES OF THE)
NEBRASKA PENITENTIARY,)
)
Plaintiffs,)
)
vs.)
)
JOSEPH VITEK,)
)
Defendant.)
_____)

CIVIL NO. 72-L-156

SUPPLEMENTAL CONSENT DECREE

The parties to this action entered into an ORDER-JUDGEMENT AND DECREE which was signed by the Court and filed on October 31, 1974. Since the date of the signing of the ORDER-JUDGEMENT AND DECREE a dispute has arisen regarding the meaning of Paragraph 2 which states in part as follows:

2. In order to meet the religious and spiritual needs of the plaintiffs class, defendants shall allow inmates access to Indian medicine men and spiritual leaders and provide facilities for spiritual and religious services, including but not limited to the Native American Church. . . .

Upon agreement of the parties that a sweat lodge is a "facility" for the worship of Indian religion, and

Upon the pleadings, depositions and all proceedings heretofore had herein, and upon agreement of the parties represented by counsel and upon the Court's findings that the interests of the class have been fairly represented, it is:

ORDERED, ADJUDGED AND DECREED that the defendants, their agents, servants, employees and their successors in office are hereby permanently enjoined and ordered to:

Indian Inmates of the Nebraska Penitentiary v. Vitek



PC-NE-002-002

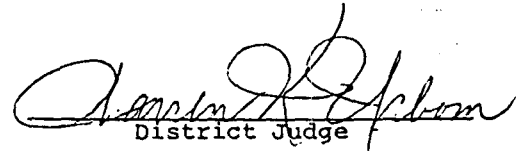
-1. Permit the construction of a sweat lodge, within a reasonable time, at the Medium Security Unit of the Nebraska Penal and Correctional Complex, by an Indian medicine man to be agreed upon by the parties. The plaintiffs will bear all costs and expenses of building the sweat lodge, which will be a dome-like structure, approximately six feet in circumference, constructed with a sapling frame and covered by blankets; the interior will contain a small pit for the sacred rocks, along with a water bucket; the floor of said sweat lodge will be covered with pine or cedar branches, or other material as designated by the parties' medicine man.

2. The defendants will permit routine access to this sweat lodge at reasonable times to be agreed upon by the parties. The use of the sweat lodge will be available to all inmates subject to the same rules and regulations as govern other religious services, recreational clubs and similar facilities at the Nebraska Penal and Correctional Complex.

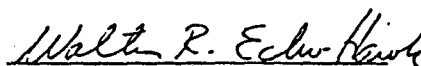
3. Within one month of the date that the sweat lodge at the Medium Security Facility is built, or as soon thereafter as may be practical, plaintiffs will be permitted to build an identical sweat lodge at the Penitentiary, unless defendants determine that there are security problems attendant to the use of the sweat lodge at the Medium Security Unit. In the event defendants determine that security problems have arisen, they will submit a report to plaintiffs outlining the exact nature of the problem or problems that have come up, setting forth names of inmates involved, dates of occurrences and what action was taken against the inmates involved.

After receipt of the report from defendants, plaintiffs will issue within 15 days a response. The parties will then meet and attempt to resolve the security problem so that a sweat lodge may safely be built at the Penitentiary.

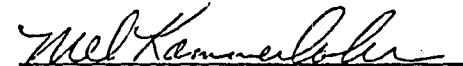
- In the event that the parties fail to agree on a solution, they will have recourse to petition the Court for further relief.


District Judge

CONSENTED TO:


Walter R. Echo-Hawk
Roy S. Haber
NATIVE AMERICAN RIGHTS FUND
1506 Broadway
Boulder, Colorado 80302
303/447-8760

Attorneys for Plaintiffs


Mel Kammerlohr
Assistant Attorney General
2119 State Capitol Building
Lincoln, Nebraska 68509
402/471-2211

Attorney for Defendant