

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO  
FILED  
UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

DWIGHT DURAN, et al.,

96 JAN 29 PM 4: 06

Plaintiffs,

*Robert M. Marsh*  
CLERK-ALBUQUERQUE

vs.

Civil Action No. 77-721-JC

GARY JOHNSON, et al.,

Defendants.

MOTION FOR TEMPORARY RESTRAINING ORDER

Plaintiffs, by their counsel and pursuant to Rule 65(b), F.R.P. Civ. P., move this Court for an order temporarily restraining Defendants from:

1. Depriving any inmates at the Penitentiary Main facility, regardless of classification, of rights or protections under this Court's Modified Decree;
2. From transferring any class members to Texas until this Court can rule on the merits of Plaintiffs' Motion for Injunctive and other Remedial Relief.

Because there is no risk of monetary damages to Defendants if this motion is granted, no bond or other security should be required in connection with the granting of this motion.

The grounds for this motion are more fully set forth in the Memorandum in Support of Temporary Restraining Order and Preliminary Injunction and in Plaintiff's Verified Memorandum Brief in Support of Motion for Injunctive and Other Remedial Relief.

Defendants have been contacted and oppose this motion.

Duran v. Apodaca



PC-NM-001-039

Respectfully submitted,

ROTHSTEIN, DONATELLI, HUGHES,  
DAHLSTROM, CRON & SCHOENBURG

By: *Mark H. Donatelli*

Mark H. Donatelli  
Post Office Box 8180  
500 Montezuma Avenue, Suite 101  
Santa Fe, New Mexico 87504-8180  
(505) 988-8004

STOUT & WINTERBOTTOM

By: *Richard A. Winterbottom*

Richard A. Winterbottom  
320 Central Ave., S.W., #30  
Albuquerque, NM 87102  
(505) 242-0117

Counsel for Plaintiffs

**CERTIFICATE OF SERVICE**

I hereby certify that on the 29 day of January, 1996, I caused to be mailed a true copy of the foregoing to the following opposing counsel, by first class U.S. mail, postage prepaid:

Robert T. Booms, Assistant Attorney General  
Attorney General's Office  
Post Office Drawer 1508  
Santa Fe, New Mexico 87504-1508

Vincent Nathan, Special Master  
644 Spitzer Building  
520 Madison  
Toledo, Ohio 43604

*Vincent Nathan*