

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

Cody v. Hillard

WILLIAM R. CODY,

Plaintiff,

v.

CAROLE HILLARD, et al.,

Defendants.



PC-SD-001-002

Civ. 80-4039

PLAINTIFFS' PROPOSED REMEDIAL ORDER

Pursuant to the findings of fact and conclusives of law set forth in the Memorandum Opinion made and entered in this cause, it is the order, judgment, and decree of this Court that defendants have violated plaintiffs' rights under the Eighth and Fourteenth Amendments to the Constitution of the United States.

I. ENVIRONMENTAL CONDITIONS-HOUSING

A. Fire Safety

1. Fire exits and stairs

a) The defendants shall provide an additional fire exit from Federal Hall by May 1, 1985;

b) the defendants shall provide new fire stairs from East Hall and West Hall by May 15, 1985;

c) the defendants shall provide an additional fire exit from East Hall by July 6, 1985; and

d) the defendants shall provide an

additional fire exit from West Hall by December 1, 1985.

2. Automatic unlocking system

The defendants shall provide that all cells used for inmate housing at the South Dakota State Penitentiary (hereinafter SDSP) are equipped with an automatic cell unlocking system by April 20, 1986.

3. Fire separation barriers

The defendants shall provide for the installation of roll-up steel slot doors at the entrance to West and Federal Halls by July 6, 1985.

4. Emergency lights

a) The defendants shall provide for emergency lights connected to the emergency generator by July 6, 1985; and

b) the defendants shall provide for two additional exit lights over the doorways in the converted exit from West Hall and one over the new exit from East Hall by February 28, 1985.

5. Smoke and fire detection system

The defendants shall maintain a fire alarm system and smoke detector system in East, West and Federal Cell Halls.

6. Fire evacuation drills

The defendants shall conduct semi-annual unannounced fire drills in East, West and Federal Cell Halls and other appropriate areas of the SDSP.

7. Other fire safety measures

a) The defendants shall maintain smoke exhaust fans in good working order in East, West and Federal Cell Halls;

b) the defendants shall continue the use of fire retardant mattresses and pillows, and the posting of fire evacuation instructions in every cell;

c) the defendants shall maintain emergency air masks and air tanks for staff use in the event of an emergency evacuation; and

d) the defendants shall submit to inspections by the Deputy Fire Marshal of the State of South Dakota and shall abate any deficiencies found as a result of such inspection.

B. Ventilation and Heating System

1. West Hall shower

The defendants shall maintain the West Hall shower in a safe and sanitary condition with adequate ventilation.

C. Overhead Lighting and Electrical Wiring

1. Cell lighting

The defendants shall provide adequate cell lighting in East, West and Federal Cell Halls by July 6, 1985.

2. Cell wiring

a) The defendants shall provide properly grounded outlets in West Cell Hall by February 28, 1985; and

b) the defendants shall provide a properly

grounded second double outlet in East Cell Hall by July 6, 1985.

3. Removal of jerry-rigged wiring

The defendants shall maintain the cell areas free of improper wiring jerry-rigged by the occupants.

D. Hot Water and Water Control System

a) The defendants shall provide a hot water system for individual cells in Federal Cell Hall by February 28, 1985; and

b) the defendants shall either provide proper plugs for sinks in individual cell halls, by March 31, 1985; or

c) the defendants shall provide a temperature regulator for East and Federal Halls by February 25, 1985.

II. ENVIRONMENTAL CONDITIONS--KITCHEN AND FOOD STORAGE AREA

A. Milk Pasteurization Process

a) Should the defendants resume pasteurization operations, these operations shall be conducted in a safe and healthful manner;

b) should the defendants resume pasteurization operations, the defendants shall submit such operations to monthly inspections of milk samples and quarterly inspections of the monitoring equipment by the South Dakota Department of Agriculture; and

c) the defendants shall immediately abate any deficiencies found as a result of such inspections.

B. Food Storage

1. Basement food storage

a) The defendants shall maintain all food storage areas in the SDSP in good repair and in a clean, healthful and vermin-free condition; and

b) the defendants shall maintain canopies or some other appropriate protective measure to ensure against unsanitary spillage from the overhead pipes in or around the stored food in the basement food storage area.

2. Kitchen food storage

a) The defendants will complete scheduled improvements on the kitchen freezers and coolers by April 15, 1985;

b) the defendants will maintain proper methods of food storage in the kitchen.

C. Kitchen Elevator

a) The defendants shall maintain the kitchen elevator in a safe operating condition and shall maintain safety buffer devices on the doors to prevent injuries; and

b) the defendants shall submit to inspections of the kitchen elevator at appropriate intervals and shall abate any deficiencies found as a result of such inspections.

D. General Kitchen Practices and Conditions

1. Ventilation

The defendants shall provide for adequate kitchen ventilation by August 15, 1985.

2. Kitchen fire safety

The defendants shall maintain ancillary fire protection systems for the kitchen stove hoods.

3. Utensil repair and sanitation

The defendants shall maintain kitchen pots, pans and dining utensils in good repair and in safe and sanitary condition.

4. Inmate access to the infirmary through the kitchen

The defendants shall prohibit inmate access to the infirmary through the kitchen during normal operational hours.

5. Kitchen food defrosting

The defendants shall maintain the food defrosting equipment in a safe and healthful manner, free from potential back siphonage.

6. Other kitchen practices

a) The defendants shall maintain the proper use of hair restraints among food service workers;

b) the defendants shall maintain the ice machine in good repair and in a sanitary condition; and

c) the defendants shall not allow use of any part of the kitchen area as a worker lounge or smoking area.

III. ENVIRONMENTAL CONDITIONS--SHOPS AND VOCATIONAL PROGRAMS

A. Welding Shop

The defendants shall maintain adequate ventilation

and toxic fume removal in the welding booths; sanding room and spray booths.

B. Furniture Upholstery Shop

a) The defendants shall maintain adequate ventilation and toxic fume removal in the furniture upholstery shop; and

b) the defendants shall require that inmate workers in the furniture upholstery shop wear appropriate protective devices when employed in the paint stripping and spraying booths.

C. Proper Storage of Combustibles

The defendants shall maintain safe and proper storage of combustible materials in the shops area.

D. Barbershop

The defendants shall maintain safe and sanitary conditions in the barbershops.

E. Safety Locking Devices

The defendants will maintain appropriate safety devices on machinery in the vocational shops.

F. Sawdust Removal

The defendants shall provide a proper sawdust removal system in the carpentry shop by March 15, 1985.

IV. ENVIRONMENTAL CONDITIONS--OTHER AREAS

A. Underground Corridor Lighting

The defendants shall provide adequate lighting in

the underground corridor to the recreation building by February 28, 1985.

B. Sanitary Conditions in the Infirmary

a) The defendants shall maintain proper sanitary conditions in the infirmary; and

b) the defendants shall maintain the infirmary free of potential back siphonage floors.

V. DOUBLE-CELLING

The defendants shall end double-celling in all areas of the SDSP by August 31, 1985.

VI. MEDICAL AND DENTAL CARE

A. Use of Inmate Workers

a) The defendants shall not employ inmate workers for tasks related to medical or dental health care, including the provision of direct care services; the scheduling of appointments or other involvement in determining the access of other inmates to health care services; and the operation of medical or dental equipment; and

b) the defendants shall provide that no inmate has access to the medical or dental records of other inmates.

B. Emergency Medical Care

1. Protocols

The defendants shall maintain proper emergency care protocols, including a provision setting forth the

identification system for the emergency medical technician (EMT) on duty.

2. Emergency staff

The defendants shall provide that at least one certified EMT shall be on duty at the SDSP at all times by July 31, 1985.

3. Crash cart

The defendants shall provide a crash cart for emergency use at the SDSP by June 1, 1985.

4. Resuscitation equipment

The defendants shall maintain proper emergency resuscitation equipment.

C. Prescription Drugs

1. Formulary

The defendants shall maintain an appropriate formulary of the prescription medications utilized at the SDSP.

2. Prohibitions on prescription of certain medications

The defendants shall not prohibit the prescription of sleeping medications, pain relievers, minor tranquilizers, appetite suppressants, and cough medicines by qualified physicians when medically appropriate in accordance with general medication policies of the SDSP.

3. Limitations on prescription of certain medications

The defendants shall not discourage or limit the prescription of anti-convulsive and anti-asthmatic medications by qualified physicians when medically appropriate in

accordance with general medication policies of the SDSP.

4. Medication dispensation

The defendants shall maintain a system in which the administration of a prescribed medication, or the inmate's refusal of such medication, is recorded.

5. Monitoring of inmates receiving major tranquilizers

The defendants shall provide for appropriate medical monitoring of all inmates receiving major tranquilizers.

C. Protocols

The defendants' proposed health care protocols (1/11/85) shall be revised to reflect the Court's findings regarding emergency care, staffing, prescription drugs, quality control, financial constraints on the provision of medical and dental care, and protocols.

D. Medical Records

The defendants shall organize existing medical files at the SDSP and shall provide that medical files are maintained in the chart order prescribed in the defendants' health care protocols. (Section I-C-1) (p. 3-4)

E. Quality Control

The defendants will develop and implement a meaningful system of quality control for health services by March 31, 1985.

F. Staff

a) The defendants shall maintain adequate medical staff at the SDSP;

b) the defendants shall provide staff coverage on

a 24-hour basis when an inmate is admitted to the infirmary; and

c) the defendants shall provide nursing staff coverage on a 24-hour basis when an inmate needing nursing services is admitted to the infirmary.

G. Financial Constraints on Medical and Dental Services

a) The defendants shall provide necessary medical, surgical and dental care;

b) the defendants shall provide necessary prostheses free of cost to indigent inmates; and

c) the defendants shall provide that medical judgments regarding necessary treatment shall not be overridden by non-medical staff for financial reasons.

VII. PSYCHIATRIC AND PSYCHOLOGICAL CARE

A. Staff

1. Staff at SDSP

a) The defendants shall employ an additional clinical psychologist at the SDSP by June 30, 1985;

b) the defendants shall, at a minimum, maintain the current staffing level for correctional counselors, specialized counselors, and psychiatric services.

2. Staff at the forensic unit

The defendants shall provide an acute and intermediate level care facility staffed by a psychiatrist, two psychologists, six nurses, four counselors or psychiatric social workers, and necessary correctional staff.

VIII. INTAKE AREA

The defendants shall provide proper initial medical screening for newly-admitted inmates.

IX. ACCESS TO THE COURTS**Access at the SDSP**

a) The defendants shall institute a formal training program for inmate law clerks at the SDSP that will train such clerks in the fundamentals of legal research, state and federal court procedures, criminal law, prisoners' rights, post-conviction remedies, and general civil matters;

b) the defendants shall provide four trained law clerks for the assistance of inmates at the SDSP;

c) the defendants shall provide by regulation that the law clerks shall not discriminate against an inmate because of his race, religion or the nature of his sentence; and

d) the defendants shall provide by regulation that the law clerks are available for assistance in the area of prisoners' rights.

X. MONITORING

The defendants shall provide the Court and plaintiffs with formal progress reports on accomplishing the above order on March 1, 1985; June 1, 1985; September 1, 1985; December 1, 1985; and March 1, 1986.

XI. FURTHER ORDERS

The subjects of Adjustment Center fire safety, cell ventilation and heating, and access to the courts at the Springfield facility will be the subject of further orders by this Court.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of January, 1985, copies of the plaintiffs' response to defendants' proposed plan for compliance and plaintiffs' proposed remedial order were mailed by first class mail to Richard Dale, Assistant Attorney General, State Capitol, Pierre, South Dakota 57501-5090.

Elizabeth Alexander / AB
Elizabeth Alexander