

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FILED
November 4, 1987
William F. Clayton
Clerk

CLM

WILLIAM R. CODY, Individually)
and on behalf of all other)
persons similarly situated,)

Plaintiff,)

v.)

CAROLE HILLARD, President of)
the Board of Charities and)
Corrections; FRANK BROST,)
Vice President; TED SPAULDING;)
D.A. GEHLHOFF, Member; LYLE)
SWENSON, Member; JAMES SMITH,)
Executive Secretary; HERMAN)
SOLEM, Warden of the South)
Dakota State Penitentiary;)
sued individually and in their)
official capacities,)

Defendants.)

Civ. 80-4039

ORDER

Commencing on July 9, 1987, this Court heard evidence from the parties regarding the state of compliance with the partial consent decree entered on July 8, 1985. The Court, having fully considered the evidence and the submissions by the parties; recognizing the earnest steps taken by the Defendants in addressing the issues raised in this action; acknowledging the diligence of Plaintiffs in advancing their interests herein; desiring a prompt and satisfactory resolution of the matters before it; being satisfied that the provisions of this remedial order do substantial justice and are fairly supported by the evidence, hereby enters the following order:

Cody v. Hillard



PC-SD-001-011

1) Appointment of health and safety panel.

A. The parties shall each appoint a sanitation and safety representative and a medical representative within ten days of this order.

B. Within twenty days of this order, the parties' representatives shall meet and shall make good faith efforts to reach agreement on specific steps to remedy deficiencies in compliance with the partial consent decree.

C. The representatives shall thereafter within twenty days report their agreements, together with any unresolved issues, to the parties.

D. The parties' counsel shall thereafter make good faith efforts to reach agreement upon any unresolved issues.

E. The parties shall thereafter report to the Court within thirty days of receiving their representatives' report.

F. Following receipt of the report, this Court will consider entry of a further order.

G. Reports required by this section of the order shall cover the following provisions of the consent decree:

I.A.6	Fire evacuation drills
I.A.7d	Fire inspections
I.B.1	Cell ventilation and heating
II.B.1	Basement food storage
II.B.2	Kitchen food storage
II.C.	Kitchen elevator
II.D.3	Utensil repair and sanitation
II.D.5	Kitchen food defrosting
III.B.	Furniture upholstery shop
III.E.	Safety locking devices

III.F.	Sawdust removal
V.C.1	Formulary
V.C.2	Prohibition on prescription of certain medications
V.C.5	Monitoring of inmates receiving major tranquilizers
V.F.1	Staff
V.F.2	Nursing staff coverage
V.G.	Financial constraints on medical and dental services
VI.A.	Staff at SDSP
VI.B.	Staff at the Forensic Unit

2) Further monitoring orders regarding sanitation and safety.

A. The Defendants shall arrange for, and submit to, semiannual inspections for fire safety, food preparation safety and hygiene, including food storage sanitation; and vocational shop safety. Consistent with the general purposes of the partial consent decree and constitutional standards, the Defendants shall correct health and safety deficiencies found in such inspections. Corrections beyond that required by the partial consent decree and constitutional standards will be undertaken by the Defendants at their option.

B. The Defendants shall promptly submit copies of the reports of such inspections to the Plaintiffs and the Court for a period of one year from the date this order is entered.

3) Further orders regarding legal access.

The Defendants shall take the following remedial actions regarding legal access:

A. Develop a form for prisoner use in requesting legal services that does not require the prisoner to disclose the reasons for seeking to contact the appointed lawyer;

B. Replace required volumes missing from the law library;

C. Assure that illiterate prisoners will be provided assistance in preparing briefs; and

D. Report to the Court on their plan for compliance in the issue of legal access within forty-five days of this order.

4) Interim extension of monitoring requirements.

Until such time as the Court enters a further order based on the report of the health and safety panel, the Court extends the monitoring requirement established under § IV of the partial consent decree and previously extended by order of this Court dated February 12, 1987. The Defendants' progress reports shall be due on a quarterly basis commencing on December 1, 1987, and continuing for one year from that date.

Nothing in this order diminishes the responsibilities of Defendants to comply promptly and fully with the partial consent decree ordered by this Court on July 8, 1985.

5) Expenses of panel.

The reasonable fees and expenses of the panel shall be borne by the Defendants.

BY THE COURT:

DONALD J. PORTER
Honorable Donald J. Porter
Chief U.S. District Judge

ATTEST:

WILLIAM F. CLAYTON, CLERK

By: CAROL L. MERRILL
Deputy Clerk

[Seal of Court]