

imposition of solitary confinement.

b. Advance written notice of the charge against him, the specific rule allegedly violated, a statement of facts supporting the charge and sufficient time in advance of the hearing to prepare a defense. No inmate may be charged with violation of rules based on hearsay. The notice shall include a statement of all rights and procedures outlined herein and shall contain a section that has "guilty" or "not guilty". The inmate shall be advised upon receipt of the notice that he can plead guilty, not guilty, or no contest. If he pleads guilty or no contest he shall be informed that he may appear before the committee and offer an explanation for his conduct. If he pleads not guilty, the notice shall indicate the date and time of the hearing.

c. The Disciplinary Board shall consist of at least three personnel of the South Dakota Penitentiary, none of those persons shall have participated as an investigator in the case, may not be the charging officers, or have any personal knowledge of any material fact independently of what is learned at the hearing.

d. The inmate shall have the opportunity to be represented at the hearing by a member of the Inmate Assistance Committee, a member of the staff from a list of non-custodial employees to be agreed upon by counsel, or retained counsel if he chooses. The defendants are not obligated to provide counsel for the inmate, unless the rule violated would also be a crime under the laws of the State of South Dakota, in which case, the inmate must be advised of all his constitutional

f. Any finding shall consist of a summary of the testimony taken and evidence in support of and in defense of the charge and shall indicate the basis for any finding that there is substantial reason to believe that the inmate has committed the alleged offense. The findings, summary of testimony and indication of the basis for a finding of guilt shall be endorsed on the disciplinary report and where there is a finding of guilt, the report will become a part of the inmates' record.

2. Defendants, their successors, agents, servants, employees and all acting in concert therewith, shall cause all disciplinary reports in inmate files which could form the basis for withholding of good time be stricken from the records and that no inmate who has been disciplined without the minimum due process standards, set forth above, have taken from him any good time.

3. The defendants shall have 60 days after the date of this order to retry any inmates who have been charged with violations of prison rules, in accordance with the minimum due process requirements set forth herein, in the event that the violation charged would subject the inmate to a withholding of good time and the defendants wish to withhold or recommend the withholding of good time from any such inmates.

4. In addition, the defendants shall file with the Court a list of rules and regulations concerning standards of behavior to be expected of each inmate and the maximum and minimum punishments to be accorded to those who are found to have violated such rules, including, but not limited to viola-

violations of existing rules and regulations, but shall be enjoined from the same unless they provide the inmates with the procedural safeguards set forth in other portions of this Order.

Dated this 24th day of August, 1973.

By the Court:

FRED J. NICHOL

FRED J. NICHOL
Chief Judge

ATTEST:

WILLIAM J. SRSTKA,
Clerk
By **DEANN NOTEBOOM,**
Deputy

(SEAL OF COURT)

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day, served true and correct copies of the within ORDER, JUDGMENT AND DECREE by mailing the same, United States Postage prepaid to:

Mr. Gale Fisher, Esq.
May, Johnson and Burke
412 West Ninth Street
Sioux Falls, South Dakota 57104



ROY S. HABER

Native American Rights Fund
1506 Broadway
Boulder, Colorado
Telephone: (303) 447-8760

DATED: