

318 Federal Building
Rapid City, South Dakota
June 17, 1974

FILED
June 19, 1974
William J. Srstka,
Clerk
By Betty B. Berry,
Deputy

Mr. David V. Vrooman
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Mr. Roy Haber
Native American Rights Fund
1506 Broadway
Boulder, Colorado 80302

Re: Crowe, et al. v. Erickson, et al., CIV72-4101

Gentlemen:

MEMORANDUM OPINION

A member of the class in the above-entitled case, Patrick Pickering, has filed an application for an order to show cause why the defendant, J. D. Parkinson, should not be held in contempt of the court for violation of an Order filed August 24, 1974 in the above-entitled action. The petitioner complains that he is being segregated without benefit of the procedural protections mandated by Judge Nichol's August 24, 1974 Order.

The petitioner has requested that David Vrooman, United States Magistrate, be appointed to investigate and formally

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report upon the matter to this Court. This appears to this Court to be very reasonable. This Court is therefore appoint-
int Mr. Vrooman to conduct an investigation into the matter pursuant to 28 U.S.C.A. §636(b). Mr. Vrooman will then make a formal report and recommendation to this Court. The report will contain the following.

- (a) Any disputes of fact relating to Mr. Pickering's complaint and petition.
- (b) Findings of fact by Mr. Vrooman.
- (c) Recommendations by Mr. Vrooman, including whether he believes a hearing will be necessary.

Both parties to this action shall have ten days from the receipt of a copy of Mr. Vrooman's report to file exceptions thereto. Should an issue of fact arise or in another appropriate circumstance, this Court will hold an evidentiary hearing. This Court believes that this procedure complies with the dictates as set forth in Noorlander v. Ciccone, 489 F.2d 642, 648-49 (8th Cir. 1973).

This Court is mindful of the great deal of time that the part-time magistrates now devote to their duties and the small amount of remuneration that they receive for their services. Therefore, this Court will not set a deadline for Mr. Vrooman's report. The manner and procedure of conducting the investiga-

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tion will be left to Mr. Vrooman as well. However, the report should disclose the same.

Mr. Vrooman may send his report directly to this office. This office will forward the report to the parties.

BY THE COURT:

ANDREW W. BOGUE
ANDREW W. BOGUE, JUDGE
UNITED STATES DISTRICT COURT