

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Richmond Division

ALAN BROWN, et al.,

Plaintiffs,

v.

CIVIL ACTION NO. 81-0853-R

TERRELL DON HUTTO, et al.,

Defendants.

PROPOSED CONSENT DECREE

Defendants hereby consent to the following provisions regarding visitation and search procedures at Virginia's Mecklenburg Correctional Center for resolution of the pending motions for a protective order and for a preliminary injunction filed herein by plaintiffs:

1. Defendants will continue to require that counsel for plaintiffs give reasonable advance notice to the defendants of the names of prisoners they wish to interview on their visits to the Mecklenburg Correctional Center, and defendants agree that counsel for plaintiffs may interview additional prisoners, not previously named, subject to reasonable time, staffing limitations, and security considerations.

2. Defendants agree that upon proper identification the attorneys and staff of the National Prison Project will be permitted to park their vehicles in the Mecklenburg Correctional Center's visitors parking area and these vehicles will not be searched.

3. Defendants agree that upon proper identification the attorneys and staff of the National Prison Project will be subject to search procedures at the Mecklenburg Correctional Center which include having their briefcases and pocketbooks inspected for contraband and they themselves subject to metal detector and pat-down inspections. Defendants will further agree that these individuals will not be subjected to strip searches,

hair searches, or to any removal of or lifting of clothing. All other terms and conditions for visiting prisoners and the search procedures attendant to those visits remain in effect to include reservation of the right to deny visitation privileges or request consent from them to be strip searched upon real suspicion that these individuals are concealing items of contraband or items affecting the security of the institution upon their persons.

4. Defendants agree that prisoners on death row at the Mecklenburg Correctional Center shall be permitted to list and have as visitors members of their family, not limited by any degree of consanguinity; common-law wives; fiancées; clergy; and friends and associates of long standing who were known by the prisoner prior to his incarceration subject to reasonable limitations upon the number of visitors that any inmate may maintain on a visiting list, subject to the reasonable approval of the warden, and subject to reasonable limits on the number of persons that may be maintained on a visiting list as presently constituted or as may be constituted in the future, and giving defendants a reasonable time in which to investigate any potential visitors. This provision shall not limit the possibility of special visitors as approved by the warden.

5. Defendants will allow non-contact visitation for death row prisoners and will require that these prisoners be subjected to reasonable search procedures including a pat-down search before and after each visit. Strip searches, however, will not be required prior to or after a visit as a routine matter. Strip searches may be required before or after a visit if in the opinion of the officer in charge there is real suspicion to believe that such a search is necessary and then he may recommend such a search to the watch commander who may authorize it. A prisoner may be subjected to leg restraints during a visit, but handcuffs will no longer be used during visitation

unless they become necessary in order to maintain order and control.

6. Defendants agree that visits to prisoners at the Mecklenburg Correctional Center will be governed by all regulations applicable to the search procedures to include that they will not be subjected to strip searches or partial strip searches prior to visitation, but defendants maintain the right to deny visitation to any visitor upon real suspicion that the visitor is attempting to bring in contraband or would otherwise jeopardize the security of the institution. Under these circumstances the visitor may be requested to submit to a strip search or partial strip search in accordance with applicable Division Guidelines and Institutional Operating Procedures, or if they refuse, then forfeit the right to visit. Defendants will agree to provide an appropriate written notice to visitors setting forth their search procedures.

7. Defendants provide that the agreed visitation and search procedures outlined herein are intended to have applicability based upon normal operations of the Mecklenburg Correctional Center. All other rules and regulations of the Virginia Department of Corrections and the Mecklenburg Correctional Center remain in full force and effect and in the event that the security environment of the Mecklenburg Correctional Center should change appreciably or it becomes apparent that individuals are abusing the provisions of this agreement, defendants maintain the right to take appropriate steps to maintain the security of their institution and/or institute individual measures necessary to ensure proper security, the provisions of this agreement notwithstanding. In the event that action in suspension of this agreement is believed by the defendants to be necessary, defendants will notify counsel

for plaintiffs of the expected duration, and as soon as practical, but no later than (5) days after such declaration, notify counsel for plaintiffs of the reasons which necessitate the suspension.

8. Defendants further agree that each instance of strip search or partial strip search or request to strip search or partial strip search at the Mecklenburg Correctional Center during visitation shall be documented and maintained in writing, setting forth the name of the visitor or prisoner searched, the time, those persons conducting the search, and the reasons for the search or request for same.

9. It is understood by the parties that this is an agreement pendente lite only, all parties hereby reserving the right to litigate the issues raised herein at the time of any hearing on the merits of allegations contained in plaintiff's complaint.

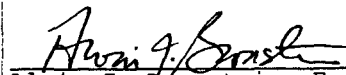
ENTER:

JUDGE

We Ask For This:



Burnett Miller, III
Richard F. Gorman, III
Assistant Attorneys General
101 North Eighth Street, Sixth Floor
Richmond, Virginia 23219



Alvin J. Bronstein, Esquire
Elizabeth Alexander, Esquire
National Prison Project
1346 Connecticut Avenue, N.W.
Suite 1031
Washington, D.C. 20031

Gerald T. Zerkin, Esquire
1001 West Brookland Park Boulevard
Richmond, Virginia 23220