

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

HORACE LUCKEY, III, et al.,)
)
 Plaintiffs,)
)
 v.)
)
 JOE FRANK HARRIS, Governor,)
 et al.,)
)
 Defendants.)

Civil Action File
No. C86-~~2586A~~ 297R

PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Come now Plaintiffs and show the following, as further evidenced by their second amended complaint, filed simultaneously herewith:

1. Plaintiffs are threatened with irreparable harm in the absence of this Court's preliminary injunction;
2. The balance of harms favors entry of this Court's preliminary injunction;
3. The public interest will not be disserved by this Court's preliminary injunction; and
4. Plaintiffs are likely to prevail on the merits.

WHEREFORE, Plaintiffs request that this matter come on for hearing on Plaintiff's request for preliminary injunction; and further that this Court issue interlocutory injunctive relief pending final decision on the merits, ordering the defendants to do the following:

- (a) provide that defendants are brought before a judicial officer within 48 or 72 hours of their arrest;

(b) provide for the appointment of competent, effective counsel at each critical stage of the criminal prosecution, including at preliminary hearings, bond hearings, arraignment, and trial;

(c) provide that every defendant is represented by competent, effective counsel throughout the criminal proceedings;

(d) limit the number of cases to which an individual attorney is appointed to a number that the attorney can handle effectively and competently, but in no event to a number exceeding recognized minimum national standards;

(e) provide for a sufficient number of public defenders in Fulton County so that each defendant will have the effective assistance of counsel at each stage of the criminal prosecution;

(f) provide that court appointed attorneys are adequately compensated and that fees are based upon the time expended on the case rather than a flat fee regardless of the method by which the case is disposed of;

(g) provide attorneys representing indigent defendants with adequate support services, including investigators, secretaries and experts;

(h) refuse to accept pleas from defendants unless those defendants have received the effective assistance of counsel and unless the pleas are knowingly and intelligently made;

(i) insure that arraignments and trials are not delayed and defendants incarcerated due to the absence of sufficient numbers of effective and competent public defenders or court appointed counsel.

(j) require the court to provide an interview setting consistent with confidential consultation with counsel.

This 30th day of October, 1990.

Respectfully submitted,

Neil Bradley (by MEK with express permission)
Neil Bradley
Georgia Bar No. 107125

American Civil Liberties
Union Foundation, Inc.
Suite 202
44 Forsyth Street, N.W.
Atlanta, Georgia 30303
404/523-2721

Robert B. Remar
Robert B. Remar
Georgia State Bar No. 600575

Megan E. Gideon
Megan E. Gideon
Georgia State Bar No. 293227

Remar & Graettinger, P.C.
Suite 333
The Carnegie Building
133 Carnegie Way, N.W.
Atlanta, Georgia 30303
404/688-4000

Susan Garrett (by MEK with express permission)
Susan Garrett
Georgia State Bar No. 286546

Sumner & Hewes
50 Hurt Plaza, Suite 700
Atlanta, Georgia 30303
(404) 588-9000

David A. Webster (by MEK with express permission)
David A. Webster
Georgia Bar No. 744975

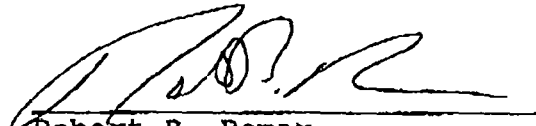
Counsel for Plaintiffs

CERTIFICATE OF SERVICE

This is to certify that I have this day served copies of the within and foregoing PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION on counsel for Defendants by depositing copies of same in the United States mail, with adequate postage affixed thereon, and properly addressed as follows:

Alfred L. Evans, Jr.
Senior Assistant Attorney General
132 State Judicial Building
Atlanta, Georgia 30334

This 30th day of October, 1990.



Robert B. Remar
Georgia State Bar No. 600575

Remar & Graettinger, P.C.
Suite 333
The Carnegie Building
133 Carnegie Way, N.W.
Atlanta, Georgia 30303
404/688-4000