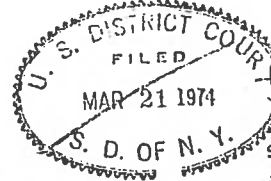


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



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CLERK OF DISTRICT COURT

JAMES RHEM, ROBERT FREELY, LEO ROBINSON and
EUGENE NIXON, individually and on behalf of
all other persons similarly situated,

Plaintiffs,

-against-

BENJAMIN J. MALCOLM, Commissioner of Correc-
tion for the City of New York; PETER
SCHAEFER, Warden, Manhattan House of Deten-
tion for Men; ABRAHAM D. BEAME, Mayor, City
of New York; PETER PREISER, Commissioner of
Correction of the State of New York; MALCOLM
WILSON, Governor, State of New York; and
OWEN MCGIVERN, Presiding Justice, New York
State Supreme Court, Appellate Division,
First Department, individually and in their
official capacities,

Defendants.

70 Civ. 3962

JUDGMENT

Lasker

MICROFILM
MAR 21 1974

This action came on to be tried before the Court,
Honorable Morris E. Lasker, District Judge, presiding, and
the issues having been duly tried, and the Court having
made and filed findings of fact and conclusions of law, all
dated January 7, 1974, and the Court expressly determining
that there is no just reason for delay in the entry of
final judgment as to the issues of correspondence, ^{and} ^{hse} ~~disci-~~
pline, ~~visiting schedules and optional work~~ it is here-
by

ORDERED, ADJUDGED and DECREED that defendants Malcolm,
Schaefer and Beame, and their agents and employees, be and
hereby are enjoined from:

1. Reading any incoming mail addressed to plaintiffs
from any court, attorney or public official, or any employee
thereof acting in an official capacity;
2. Opening any incoming mail addressed to plaintiffs
from any court, attorney or public official, or any employee

thereof acting in an official capacity, except in the presence of the addressee;

3. Refusing to deliver to plaintiffs any book, periodical or other reading material on the ground that it has not been sent directly from a publisher; provided, however, that nothing contained in this paragraph shall prohibit defendants from inspecting for contraband said book, periodical or other reading material in order to protect the security of the institution.

4. Subjecting plaintiffs to any punishment for any disciplinary infractions without first according plaintiffs institutional hearings in accordance with the procedures set forth in Schedule A, annexed hereto;

5. Depriving plaintiffs found guilty of institutional infractions of the right to receive visitors and send and receive mail; and it is further

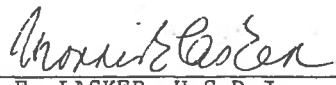
ORDERED, ADJUDGED and DECREED that, it appearing that further evidence is necessary to determine an appropriate program of contact visiting, and of the hours of visiting, numbers of visitors and days upon which visiting should occur, a hearing will be held by the Court on the 27 day of March, 1974, at 10 AM in Room 619 of the Court House, at which the testimony of witnesses presented by the parties shall be taken and any relevant evidenced considered; and it is further

ORDERED, ADJUDGED and DECREED that defendants Malcolm, Schaefer and Beame shall submit to the Court and counsel for plaintiffs within thirty (30) days of entry of this judgment a comprehensive and detailed plan for the elimination of all conditions and practices declared to be in

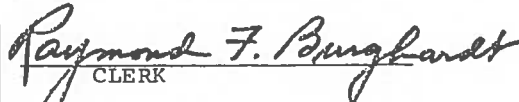
violation of the Constitution of the United States by the Court's opinion of January 7, 1974 as to which final judgment has not been entered herein; and it is further

ORDERED, ADJUDGED and DECREED that within thirty (30) days of submission of the above-mentioned plan, counsel for plaintiffs shall submit to the Court and to counsel for defendants any objections or comments thereto.

Dated: New York, New York
March 19th, 1974.


MORRIS E. LASKER, U.S.D.J.

Judgment entered this
22nd day of March, 1974.


CLERK

SCHEDULE A

DISCIPLINARY PROCEDURES
FOR THE MANHATTAN HOUSE
OF DETENTION FOR MEN

In addition to according the accused all rights guaranteed under Rule 4.49 of the Rules and Regulations of the Department of Correction of the City of New York, the following procedures shall be followed:

1. Notice

No later than thirty-six (36) hours prior to any institutional disciplinary hearing, the accused shall be given a written notice stating:

- a) the precise institutional rule allegedly violated;
- b) a summary of the factual allegations upon which the charge is based;
- c) the maximum penalty which may be imposed should the accused be found guilty of the infraction;
- d) the date and time when a disciplinary hearing will be held; and
- e) all rights which the accused will have in the disciplinary proceeding, as set forth herein.

2. Hearings

At all institutional disciplinary hearings, the accused shall have the right to:

- a) call witnesses in his own behalf; and
- b) confront and cross examine all individuals who have given information adverse to him.

3. Counsel or counsel-substitute.

The accused shall have the right to be represented by counsel, or if he so elects, counsel-substitute in all disciplinary proceedings where

a) The charge is one which may be punished by punitive segregation or loss of physical exercise periods, or which may be disclosed to the sentencing court in a criminal case, and the accused either seriously disputes the charge or states that he has substantial mitigating factors to present; or

b) There will be difficulty in presenting a defense because of the complexity of the charge or because the accused appears incapable of speaking effectively for himself; or

c) The charge describes an act which constitutes a crime.

"Counsel substitute" may include any law student or law school graduate awaiting the result of a bar examination and, where neither a member of the bar, law student or law school graduate is reasonably available, may include a fellow inmate.

4. Hearing Officer

The individual presiding at the disciplinary hearing shall be impartial and shall not have taken part in any prior investigation of the charge.

5. Written Findings and Reasons

Within twenty-four (24) hours of the conclusion of every disciplinary hearing at which an inmate is found guilty of an infraction, the hearing officer shall prepare and give to the inmate a written statement setting forth findings of fact and reasons for the decision.

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