

It is assigned to _____, 566- _____

Your reference to the above File Number on all documents and correspondence would be appreciated.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JAMES BENJAMIN, et al.,

Plaintiffs,

-against-

BENJAMIN J. MALCOLM, Commissioner of
Corrections of the City of New York,
et al.,

Defendants.

-against-

MARIO CUOMO, et al.,

Third-Party Defendants.

On February 24, 1986, this Court issued a Temporary Restraining Order, requiring the third-party defendants to accept custody of each person housed in correctional facilities of the City of New York who is sentenced to a term of imprisonment in a State facility within forty-eight hours after the papers for transfer have been completed. As part of said order, this court issued an order to show cause why a preliminary injunction should not be issued. The Temporary Restraining Order was continued pursuant to Fed. R. Civ. Proc. until March 16, 1985.

Having considered the affidavits of Leonard Koerner, dated February 20, 1986 and March 6, 1986, and Jacqueline McMickens, dated February 20, 1986 and March 7, 1986, in support of the motion; and the affidavit of Thomas A. Coughlin, III, in opposition thereto; and having heard oral argument on March 7, 1986 and having considered the foregoing and the affidavits and briefs filed herein, the Court finds:

Handwritten signature: N. Ber signed
75 Civ. 3073
(MEL)
ORDER

*Joinder
of state
P.I. - 1986*

A

1. That the Court has jurisdiction over the subject matter of this application;

2. That the defendants have raised sufficiently serious questions going to the merits to make them a fair ground for litigation; and

3. That the failure to grant the preliminary relief requested by the defendants will cause them irreparable harm; and

4. That the balance of hardship tips decidedly toward the defendants.

Now, Therefore, in accordance with the foregoing findings, it is
Ordered, Adjudged and Decreed:

The Governor of the State of New York and the Commissioner of the State Department of Correctional Services are joined as third-party defendants in the above captioned action, pending a determination whether they should be retained permanently as defendants; and

The third-party defendants, and all persons acting by, through under, or by or through their order be, and are hereby ordered, pending a final determination of the defendants' application, to accept custody of each person housed in correctional facilities of the City of New York who is sentenced to a term of imprisonment in a State facility within forty-eight hours after the papers for transfer have been completed.

Dated: New York, New York
March 17, 1986


U.S.D.J.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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75 Civ. 3073
(MEL)
ORDER

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1. That the Court has jurisdiction over the subject matter of this application;

2. That the defendants have raised sufficiently serious questions going to the merits to make them a fair ground for litigation; and

3. That the failure to grant the preliminary relief requested by the defendants will cause them irreparable harm; and

4. That the balance of hardship tips decidedly toward the defendants.

Now, Therefore, in accordance with the foregoing findings, it is Ordered, Adjudged and Decreed:

+ for the purpose of preserving the status quo

The Governor of the State of New York and the Commissioner of the State Department of Correctional Services are joined as third-party defendants in the above captioned action, pending a determination whether they should be retained permanently as defendants; and

The third-party defendants, and all persons acting by, through under, or by or through their order be, and are hereby ordered, pending a final determination of the defendants' application, to accept custody of each person housed in correctional facilities of the City of New York who is sentenced to a term of imprisonment in a State facility within forty-eight hours after the papers for transfer have been completed.

male adult

Dated: New York, New York
March 17, 1986


U.S.D.J.