

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
ERIC VEGA, et al.,

Plaintiffs,

- against -

ALLYN SIELAFF, et, al.,

Defendants,
-----X

82 Civ. 6475 (MEL)

INTERIM ORDER
RELATING TO
MEDICAL PLACEMENT
AND ISOLATION
OF PATIENTS WITH
CONTAGIOUS DISEASES

On September 26, 1988 the Court approved a Stipulation and Order in this case which provided, in part, that patients with symptoms of tuberculosis or other communicable diseases "shall be isolated in a medically appropriate manner from the rest of the inmate population." Stipulation and Order at ¶ B(1)(a).

On May 3, 1990, the Court toured the defendants' contagious disease isolation facilities at George Motchan Detention Center (GMDC). It was undisputed that these facilities did not comply with the said Stipulation and Order. Report of May 3, 1990 Visit by the Court to Rikers Island ("Court Visit Report") at 3-5. The defendants stated that they would prepare additional isolation facilities at George R. Vierno Center (GRVC), then known as "Nursery Beacon."

On May 22, 1990 the Court entered a decision in this case "ordering that all steps be taken to assure the completion of the [Nursery Beacon contagious disease isolation unit] project" and further urged that the project be completed as rapidly as pos-

sible and in a manner that when completed "will do the job." Decision of the Court (oral transcript) at pp. 7-9.

The Court also temporarily permitted the defendants to operate a six-bed Contagious Disease Unit ("CDU") at the North Infirmary Center within the Dormitory Four housing module area "until the Nursery Beacon facility . . . is completed" and under the condition that it house only "so-called low suspicion patients" and "provided that the City furnishes evidence to assure that the ventilation system will produce the required number of air exchanges per hour and will be failsafe." Decision of the Court at pp. 3-4.

At the time of the Court's decision, in May 1990, the defendants had represented that the Nursery Beacon project was scheduled to be completed a few months later in September of 1990. Court Visit Report at p. 5, fn. 6.

By letter dated November 14, 1991, the Corporation Counsel informed plaintiffs' attorneys, the Legal Aid Society, that "the isolation unit at GMDC has not opened because of noise problems" and that another consultant has been hired to study conditions at GRVC but "at this point [the defendants] cannot predict how long it will take the consultant to complete the assessment of GRVC."

Subsequently the defendants have determined that neither the facilities at GMDC nor those at GRVC are serviceable for contagious disease isolation, and that they must start over in order to comply with the September 26, 1988 Stipulation and Order and with the intent of the Court's May 22, 1990 decision. They have informed the Court and the parties that they have abandoned the

GMDC and GRVC projects and now intend to convert part of the West Facility for contagious disease isolation. Their current proposal calls for the construction of an initial group of 42 contagious disease isolation rooms and of a second, larger group of such rooms at a later date. This proposal is embodied in their consultants' report, Silver & Ziskind, Architects, et al., Analysis of Communicable Disease Units on Rikers Island (January 10, 1992) ("Silver & Ziskind report"), annexed as Attachment A to the plaintiffs' Order Relating to Medical Placement and Isolation of Patients with Contagious Diseases, Annotated Version (January 21, 1992).

The plaintiffs have sought a comprehensive order governing the construction and operation of respiratory isolation units on Rikers Island and elsewhere immediately and in the future. The court has heard argument and has determined that immediate relief is necessary as to the construction of the first phase of defendants' most recent proposal for contagious disease isolation facilities, as described in the Silver & Ziskind report.

NOW THEREFORE, upon application of the plaintiffs and for good cause shown, it is ORDERED that defendants, their agents, successors and assigns and all those in active concert and participation with them are HEREBY ENJOINED to take the following measures:

1. Defendants shall forthwith submit to the Comptroller of the City of New York an application for a declaration of emergency for the purpose of expediting construction of contagious disease isolation units on Rikers Island, as set forth below.

2. The Comptroller shall act upon the said application forthwith.

3. The defendants shall take all actions necessary and within their collective power to complete the proposed initial group of 42 contagious disease isolation rooms, under the guidance and direction of a certified engineer with knowledge of the requirements of hospital contagious disease isolation areas and ventilation systems and with substantial experience in the construction of hospitals and hospital-based isolation areas, as described in the Silver & Ziskind report, as soon as possible and in any event no later than May 1, 1992.

IT IS SO ORDERED.

S/
MORRIS E. LASKER
United States District Judge

Dated: January 24, 1992
New York, New York