

At a Civil Term, Part 20, of
the Supreme Court of the State
of New York, held in and for
the County of New York, at 9:30
a.m. on the 19th day of
November, 1992.

Present: Hon. Joan B. Lobis, Justice

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In the Matter of the Application of :
EDITH CALVIN and DEXTER CAPERS, :
et al., individually and on behalf :
of all other persons similarly situated, :
:
Petitioners, :
:

For an Order pursuant to Article 78 :
of the Civil Practice Law and Rules, :

- against - :

CATHERINE ABATE, Commissioner of the :
New York City Department of Correction; :
NORMAN GOODMAN, County Clerk of New :
York County; GLORIA D'AMICO, County :
Clerk of Queens County; WILBUR A. :
LEVIN, County Clerk of Kings County; :
LEO LEVY, County Clerk of Bronx County; :
MARIO J. ESPOSITO, County Clerk of :
Richmond County; THOMAS A. COUGHLIN III, :
Commissioner of the New York State :
Department of Correctional Services; :
and RAUL RUSSI, Chair of the New York :
State Division of Parole, in Their :
Official Capacities, :
:

Respondents.

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ORDER ADJUDGING
RESPONDENT/DEFENDANT
COUGHLIN IN CONTEMPT
AND GRANTING INTERIM
RELIEF

Index # 44831/91

WHEREAS, on September 21, 1992, this Court entered an Order in
the above-captioned matter approving a Settlement Agreement which
had been signed by counsel for Petitioners and for Respondents
CATHERINE ABATE, Commissioner of the New York City Department of
Correction, THOMAS A. COUGHLIN III, Commissioner of the New York

State Department of Correctional Services, and RAUL RUSSI, Chair of the New York State Division of Parole; and

WHEREAS, the Settlement Agreement requires, inter alia, that Commissioner COUGHLIN accept the transfer within 10 business days of all "state ready" prisoners who have been newly sentenced to State prison sentences or finally adjudicated to be in violation of parole, or who are state prisoners being returned to State custody following satisfaction of court orders ("court returns"); and

WHEREAS, on November 4, 1992, Petitioner/Plaintiffs moved by their counsel for orders adjudging Respondent/Defendant COUGHLIN in civil contempt, pursuant to Judiciary Law §753, for failing to accept the transfer of "state ready" prisoners within 10 business days, and requiring Respondents/Defendant COUGHLIN and Respondents ABATE, Commissioner of City DOC, and RUSSI, Chair of the State Division of Parole, to provide monitoring documents more frequently than the schedule set forth in the Settlement Agreement, and directing additional and further relief; and

WHEREAS, this Court ordered Respondent/Defendant COUGHLIN to appear at a hearing on November 13, 1992, to show cause why he should not be adjudged in contempt; and

WHEREAS, at the hearing held by this Court on November 13, 1992, counsel for Respondent/Defendant COUGHLIN admitted that he was in violation of his obligations under the Settlement Agreement to accept transfer of "state ready" prisoners within 10 days and stated that State DOCS has a plan to remove the backlog of "state ready" prisoners by December 14, 1992; and

WHEREAS, at this hearing counsel for Petitioners and counsel for the State Division of Parole produced the names and identifying information for approximately 105 "state ready" newly-sentenced and court-return prisoners and finally-adjudicated parole violators who are eligible for release or re-release on parole or conditional release by December, 1992; and

WHEREAS, at this hearing counsel for Petitioners and Respondent ABATE submitted a stipulation concerning the future monitoring obligations of City DOC, and counsel for Respondent RUSSI indicated that State Division of Parole had agreed to provide monitoring documents to counsel for Petitioners on a weekly basis,

IT IS HEREBY ADJUDGED AND ORDERED, that Petitioners/Plaintiffs' motion for an Order adjudging Respondent/Defendant COUGHLIN in contempt of the September 21, 1992, Order approving the Settlement Agreement is granted and Respondent/Defendant COUGHLIN is hereby adjudged to be in contempt; AND IT IS FURTHER

ORDERED, that this case is adjourned for further proceedings on December 14, 1992, at 4 p.m.; AND IT IS FURTHER

ORDERED, that pending the hearing on December 14th, Commissioner COUGHLIN shall accept the transfer of the 105 "state ready" newly-sentenced and court-return prisoners and finally-adjudicated parole violators identified by the State Division of Parole and counsel for Petitioners/Plaintiffs as eligible for release or re-release on parole or for conditional release by November 27, 1992, subject to confirmation that these prisoners are

eligible for such release; AND IT IS FURTHER

ORDERED, that pending the hearing on December 14th, Commissioner COUGHLIN shall accept the transfer of any other "state ready" newly-sentenced and court-return prisoners and finally-adjudicated parole violators who are subsequently identified by City DOC or counsel for Petitioners/Plaintiffs as being eligible for release or re-release on parole or for conditional release by December, 1992, within two weeks of receiving notice, subject to confirmation that these prisoners are eligible for such release; AND IT IS FURTHER

ORDERED, that by December 14, 1992, Respondent/Defendant COUGHLIN shall accept the transfer of all other finally-adjudicated parole violators and State court-return and newly-sentenced prisoners who were "state ready" on or before November 30, 1992, OR IN THE ALTERNATIVE, show cause why he cannot do so; AND IT IS FURTHER

ORDERED, that State DOCS shall furnish Petitioners' counsel with the "state ready" listing of newly-sentenced prisoners and the "State Ready RPV" listing of affirmed parole violators on a weekly basis, and with the "state ready removal totals" report and the "back-up" list issued by State DOCS' Screening Unit for newly-sentenced male prisoners who have been removed from the "state ready" list once a month, and that, upon notice from Petitioners' counsel that weekly monitoring is no longer necessary, State DOCS shall provide the "state ready" newly-sentenced prisoner listing and the "State Ready RPV" report on a monthly basis; AND IT IS

FURTHER

ORDERED, that henceforth City DOC and counsel for Petitioners shall furnish one another with monitoring documents under the terms set forth in their Stipulation, and that State Division of Parole shall provide monitoring documents to Petitioners' counsel on a weekly basis, and upon notice from Petitioners' counsel that weekly monitoring is not necessary, shall provide monitoring documents on a monthly basis; AND IT IS FURTHER

ORDERED, that if by December 14, 1992, Respondent/Defendant COUGHLIN is in compliance with both the terms of this Interim Order and the obligations imposed upon him by the Settlement Agreement which this Court approved on September 21, 1992, this Court will execute an Order on that date purging him of contempt.

ENTER,



J.S.C.

JOAN E. LOBIS