



IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, ALABAMA

STATE OF ALABAMA, Ex Rel.,)
CHARLES A. GRADDICK,)
Attorney General of)
Alabama,)

Plaintiff,)

v.)

CIVIL ACTION NO. _____

FREDDIE V. SMITH, in his)
official capacity as)
Commissioner of the Alabama)
Department of Corrections,)

Defendant.)

COMPLAINT FOR DECLARATORY JUDGMENT
AND INJUNCTIVE RELIEF

1. Plaintiff Charles A. Graddick is the Attorney General for the State of Alabama.

2. The Attorney General is authorized by Code of Ala. (1975) §36-15-12 to institute and prosecute, in the name of the state, all civil actions and all other proceedings necessary to protect the rights and interests of the state.

3. The state has a right and interest in assuring that persons sentenced to the penitentiary by its courts are not released prematurely and that the sentences imposed by its courts are carried out.

4. Defendant Freddie V. Smith is the Commissioner of the Alabama Department of Corrections.

5. Commissioner Smith, to reduce the number of prisoners the Alabama Department of Corrections is required by law to incarcerate, has instituted a program designated as the Supervised Intensive Restitution (SIR) Program.

6. The SIR Program was established pursuant to Administrative Regulation Number 432 issued March 22, 1983. A copy of Administrative Regulation Number 432 is attached hereto as Exhibit "A".

7. Commissioner Smith issued Administrative Regulation Number 432 under the presumed authority of Code of Ala. (1975) §14-8-61.

8. Section 14-8-61 provides as follows:

In order to provide for the individual supervision and placement of an inmate in the community where the inmate will reside after release from a state correctional institution, the board [Department of Corrections] is authorized to adopt rules, regulations and policies permitting the commissioner to extend the limits of confinement of an inmate where there is reasonable cause to believe the inmate will honor the trust placed in such inmate by authorizing such inmate, under prescribed conditions to leave the confines of that place unaccompanied by custodial agents for a prescribed period of time to seek and secure employment and a place of residence in the community where the inmate will reside after the release from a state correctional institution.

9. Pursuant to Administrative Regulation Number 432 eligibility for release under §14-8-61 is extended to within two

years of release taking into consideration good time and other sentence reduction.

10. The SIR Program was initiated on April 1, 1983.

11. Since April 1, 1983, Commissioner Smith has released hundreds of inmates, some months and years early, under the SIR Program subject only to the standards of supervision as set out by Administrative Regulation Number 432.

12. Administrative Regulation Number 432 in addressing eligibility for the SIR Program does not require that an inmate's prior record be taken into consideration with regard to eligibility for release, but only the nature of the offense for which the inmate is presently serving time, the inmate's present custodial record, and the inmate's willingness to agree to the conditions of release.

13. Supervision of inmates under the SIR Program involves only twice weekly employment verification and four face to face contacts per week for the first three months with decreasing face to face contact and employment verification thereafter.

14. The SIR Program as implemented pursuant to Administrative Regulation Number 432 exceeds the release authority granted the Department of Corrections by the Alabama Legislature under Code of Ala. (1975) §14-8-61.

15. Section 14-8-61 only allows the Department of Corrections to release an inmate who will soon complete his sentence from a state correctional institution for a prescribed period of time to seek and secure employment and a place of residence in the community where he will reside after release, with the expectation that the inmate will return to the state correctional institution at the end of the prescribed time.

16. Inmates have been and are continuing to be released under the SIR Program without due regard to their prior record and propensity for committing crimes, all to the detriment and danger to the people of Alabama.

17. Release under the SIR Program has and continues to adversely affect the legitimate penalogical goal of incapacitation by placing inmates in the community months and years early when they would otherwise be incapacitated from committing crimes.

18. Release under the SIR Program has and continues to adversely affect the legitimate penalogical goal of punishment by minimizing through early release the punitive aspects of incarceration.

19. Release under the SIR Program has and continues to adversely affect the legitimate penalogical goal of deterrence by making a mockery of judicial sentencing.

20. The longer the SIR Program remains in effect the greater the chances become that someone in Alabama will become the victim of a serious violent crime at the hands of an inmate released under the program when but for the program the inmate would have remained incapacitated from committing the crime.

WHEREFORE, THE PREMISES CONSIDERED, Attorney General Graddick prays for relief as follows:

1. For a preliminary injunction enjoining Commissioner Smith from releasing any further inmates under the SIR Program pending final resolution of this matter.

2. For a declaratory judgment that Administrative Regulation Number 432 and the SIR Program implemented pursuant thereto exceeds the authority of the Department of Corrections to release inmates under Code of Ala. (1975) §14-8-61.

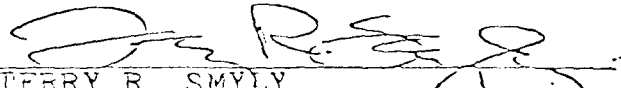
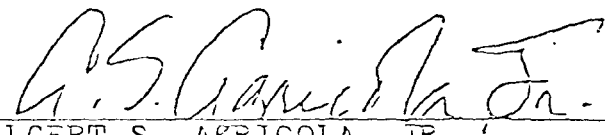
3. For a permanent injunction forever enjoining Commissioner Smith and his successors in office from releasing inmates under the SIR Program or under Code of Ala. (1975) §14-8-61 except for the very limited purposes and prescribed time periods contemplated by that section.

4. For such other relief as may be just and proper.

CHARLES A. GRADDICK

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