

ENTERED

FILED

3

On
THE DOCKET
APR 6 1987
WILLIAM T. WALSH, CLERK
Carol Palmer
(Deputy Clerk)

APR 6 1987
At 8:30 A.M.
WILLIAM T. WALSH
CLERK

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ESSEX COUNTY JAIL ANNEX INMATES,
COREY WEBB, THOMAS ARMOUR, FREDERICK
W. BOOKER, JAMES SIMON, RONALD
MCCLENDON, ROSETTA DRAKE, CANDACE
JOHNSON, ROSALIND ROBINSON, on be-
half of themselves and all other
persons similarly situated,

Plaintiffs,

vs.

NICHOLAS AMATO, Essex County Execu-
tive, THOMAS THOMPSON, Acting
Administrator, THOMAS GIBLIN,
President, Essex County Board of
Chosen Freeholders, CARDELL COOPER,
ADRIANNE DAVIS, JOHN ALATI, JAMES
CAVANAUGH, PEARL BEATTY, ARTHUR CLAY
and MONROE JAY LUSTBADER, Members
Essex County Board of Chosen Free-
holders, EMILY WEBER, Acting
Director, Department of Public
Safety, and their Successors in
Office, individually and in their
official capacities,

and

WILLIAM H. FAUVER, COMMISSIONER,
New Jersey Department of
Corrections, and his Successor
in office, individually and in
his official capacity,

Defendants.

Hon. Harold A. Ackerman

Civil No. 87-871

(Class Action)

Civil Rights Claim

O R D E R

Pursuant to Rule 53(b) of the Federal Rules of Civil
Procedure,

It is on this 6th day of April, 1987,

ORDERED that this case is hereby referred to JAMES R. ZAZZALI, ESQ., and SIDNEY REITMAN, ESQ., as Special Masters in light of the exceptional circumstances present in this institutional reform litigation and the expertise of Messrs. Zazzali and Reitman have gained from their role as Masters in the Essex County Jail and Newark City Jail cases.

It is further ORDERED that the Special Masters shall conduct a thorough examination into the totality of the conditions at the Essex County Jail Annex in North Caldwell, N. J. (including but not limited to those areas of the facility specifically referenced in the complaint) in accordance with the guidelines set forth below and shall submit to the Court their proposed findings of fact and conclusions of law as to whether the overcrowded condition of the jail is violative of the United States Constitution with respect to sentenced inmates or with respect to pretrial detainees.

It is further ORDERED that, in order to enable the Special Masters to carry out their duties, they shall have the following powers and authority:

1. The Special Masters are authorized to select and hire, with prior approval of the Court, such assistant(s) as may be required to aid them in performing their duties. With prior approval of this Court, the Special Master may also consult appropriate, independent specialists.

2. The Special Masters shall have unlimited access to the premises of the Essex County Jail Annex, all locations, at any time and they shall notify counsel for the

parties so that they or their designees may accompany the Masters if they desire.

3. The Special Masters shall have unlimited access at reasonable times to all files, statistics, plans, and reports relating to the Essex County Jail Annex, all locations.

4. The Special Masters shall be authorized to conduct confidential interviews at any reasonable time with any staff member or inmate, and shall have the right to attend any institutional meeting or proceeding.

5. The Special Masters shall be empowered to hold hearings and to call witnesses, including both inmates and staff of the Essex County Jail Annex, all locations.

6. The Special Masters shall have the authority to seek orders from the Court to show cause why the defendants or any of their agents, employees, or persons acting in concert with them, should not be held in contempt for failure to comply with their instructions or orders, or the orders of this Court.

It is further ORDERED that the defendants shall post notices throughout the Essex County Jail Annex, all locations, stating that the Court has appointed Special Masters who may from time-to-time visit the jail, and talk to the staff members or inmates. The notice shall emphasize that the Special Masters' function is only to aid the Court in its determination of the constitutionality of the allegedly

overcrowded condition of the jail; that their appointment is not to be considered as providing any substitute for, or addition to the regular grievance and disciplinary procedures of the jail; that they are not to investigate, to arbitrate, or to interfere with the disposition of the grievances or complaints of individual inmates or staff members; that if the Special Masters desire any information from either inmates or staff with respect to such matters, they will initiate the matter; and that if any person, inmate or staff member desires to bring any matter to the attention of the Special Masters, he or she may do so only by making the desire known to counsel for the parties, who will then decide whether to bring the matter to the attention of the Special Masters. The notices to be posted throughout the Essex County Jail Annex, all locations, shall state the name and address of counsel for the plaintiff class, counsel for the county defendants, counsel for the State defendant and any counsel for individual defendants who may appear. The notices shall remain posted until the Special Masters have been discharged. The form of the notices shall be drafted by counsel and fixed by the Special Masters.

It is further ORDERED that expeditiously, but in any event no later than 90 days from the date of this order, the Special Masters shall file their proposed findings of fact and conclusions of law as to whether the Essex County Jail Annex, all locations, is unconstitu-

tionally overcrowded. The report shall separately address the following specific issues:

1. The maximum capacity of the Essex County Jail Annex;
2. Whether the support services and facilities can sufficiently accommodate that capacity, and
3. The precise relationship, if any, between the alleged unconstitutional conditions at the Essex County Jail Annex and circumstances existing at the Essex County Jail, including but not limited to compliance or noncompliance by the County with prior orders and consent judgments filed in Essex County Jail Inmates, et al. v. Collier, Civil Action No. 82-1945 and United States of America v. City of Newark v. County of Essex, Civil Action No. 84-433, and any other matters which have come to the attention of the Masters through their involvement in those two cases.

With respect to each issue, the Special Masters shall, if appropriate, set forth a proposed timetable for the institution of any changes which they recommend, and a proposed classification scheme for any releases which may be necessary.

It is further ORDERED that the parties shall have ten (10) days after the Special Masters submit their report to serve written objections on the Court and other parties if they so desire.

It is further ORDERED that as soon thereafter as the Court's calendar allows, the Clerk of the Court shall set the case for a hearing. The Court shall accept the Master's findings of fact unless clearly erroneous. The Court after the hearing may adopt the report or may modify it or may reject it in whole or in part or may receive further evidence or may recommit it with instructions.

It is further ORDERED that after the filing of the initial report the Special Masters shall file reports not less than every sixty (60) days, until they find that the defendants have fully complied with any order of the Court entered upon said initial report, and that such compliance has continued for a sufficient length of time to make a lapse into noncompliance improbable. At that time, the Special Masters may recommend their discharge.

It is further ORDERED that pursuant to Rule 53, Federal Rules of Civil Procedure, the Special Masters shall be allowed necessary expenses and a fee of \$100.00 per hour for their personal services and \$95.00 per hour for the services of other members of their law firms in carrying out the duties imposed upon the Special Masters by this order, said fees and expenses shall be paid 50% by the Essex County defendants and 50% by the State defendants in this action. The Special Masters shall keep a record of the time spent in connection with their duties, which they shall submit periodically to the de-

fendants for processing, and payment, and

It is further ORDERED that the Court shall retain jurisdiction over the parties and this cause of action.

A handwritten signature in cursive script, appearing to read "Harold A. Ackerman". The signature is written in dark ink and is positioned above a horizontal line.

HAROLD A. ACKERMAN, U.S.D.J.