

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FILED
July 8, 1985
William F. Clayton,
Clerk
JLH

WILLIAM R. CODY, Individually and on behalf
of all other persons similarly situated,

Plaintiffs

vs.

CAROLE HILLARD, President of the Board of
Charities and Corrections; FRANK BROST,
Vice President; TED SPAULDING; D.A.
GEHLHOFF, Member; LYLE SWENSON, Member;
JAMES SMITH, Executive Secretary; HERMAN
SOLEM, Warden of the South Dakota State
Penitentiary; sued individually and in their
official capacities,

CIV. 80-4039

FINAL ORDER

Defendant.

The Court having entered its findings of fact and conclusions
of law in this case, see Cody v. Hillard, 599 F.Supp. 1025
(D.S.D. 1984), it is

ORDERED that in the event that the daily population of the
SDSP, other than Protective Custody inmates, shall exceed 95% of
total American Corrections Association (ACA) rated capacities for
60 consecutive days, the defendants shall commence to develop
programs to reduce that population; if such population shall
exceed 110% of such ACA capacities for 60 consecutive days, the
State within 180 days shall reduce said population to 95% of the
total ACA capacities of these facilities; provided, however, that
days during which populations may exceed these percentages as a
consequence of riot, fire, acts of God, labor unrest, war, civil

Cody v. Hillard



PC-SD-001-006

disturbance, or any other emergencies shall be excluded in applying the foregoing;

The defendants shall cease double-celling of inmates held in Protective Custody;

The defendants will provide a meaningful system of quality control for health services, including a system of annual on-site reviews of medical personnel to be undertaken by appropriate officials of the South Dakota Department of Health;

The defendants shall provide staff coverage on a 24-hour basis when an inmate is admitted to the infirmary, consisting of at least hourly visual checks upon the inmate by a staff member. The defendants shall also provide a functioning emergency call button system in the infirmary rooms.

Dated July 8, 1985.

BY THE COURT:

DONALD J. PORTER
CHIEF JUDGE, U.S. DIST. COURT

ATTEST: WILLIAM F. CLAYTON, CLERK

BY: JUDY L. HARVEY
Deputy

(SEAL OF COURT)