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United States District Court, M.D. Pennsylvania.

William R. MAWSON, et al., Plaintiffs,
v.
Donald D. DORRIS, et al., Defendants.

CIV. No. 78-1096. | April 21, 1989.

Opinion

MEMORANDUM AND ORDER

CONABOY, Chief Judge.

***1** On November 9, 1978 several inmates at the Luzerne County Prison filed a complaint pursuant to 42 U.S.C. § 1983 alleging that certain conditions of confinement at the prison were substandard and in violation of the Eighth Amendment to the United States Constitution barring cruel and unusual punishment.

On October 26, 1979, an Order was entered certifying this lawsuit as a class action.

On October 19, 1981, a Memorandum of Agreement was entered into by the parties and approved as an Order of this Court on December 4, 1981. The Memorandum of Agreement became a Consent Decree providing for injunctive and declaratory relief in a variety of areas making up the operation of the Luzerne County Prison.

On May 3, 1985, this Court determined that there was not appropriate compliance with the Consent Decree and appointed Major John D. Case, then of the Pennsylvania Prison Society, to act as a Master for the purpose of investigating conditions at the prison and report to this Court of his findings and recommendations. Since that date, the Luzerne County Prison (now known as the Luzerne County Correctional Facility) has operated under the regular inspection of the said Master and the supervision of this Court.

On October 7, 1987 the Defendants filed a motion to terminate the Court's Order of December 4, 1981 and to close this case, alleging that the conditions which gave rise to the lawsuit have been remedied and that the Defendants are in compliance with the Order of this Court. Plaintiffs filed an answer and brief in opposition to the motion which was subsequently followed by several hearings and continued observation and supervision of the

prison by the Master and this Court.

On Thursday, April 20, 1989, a hearing was held pursuant to the motion to terminate and several intervening Orders of this Court. At the conclusion of that hearing, this Court determined that the motion to terminate this Court's intervention of the operation of the Luzerne County Prison should be granted. At the conclusion of the hearing, the Court issued a Statement and Order from the Bench, which is attached hereto and made a part of this Memorandum.

Pursuant to that attachment and the factual recitation reported herein, the following Order is entered.

ORDER

NOW, April 21, 1989, in view of the foregoing, IT IS ORDERED AS FOLLOWS:

1. The Defendants' motion to terminate this Court's Order of December 4, 1981 and to close this case is granted.
2. The Clerk of Courts is directed to file a copy of this Order with counsel for the parties hereto and with the Master appointed by this Court, Major John D. Case.
3. The Clerk of Courts is directed to close this case.

APPENDIX A

COURT STATEMENT AND ORDER

April 20, 1989

This is perhaps the oldest, if not one of the oldest cases here in the Middle District. It was filed back in November I believe of 1978. The matter came to me after I was appointed some ten years ago. So it, indeed, has been a long time in proceeding.

***2** Initially the matter we thought was resolved by a consent decree wherein the Defendants, the administration of the prison, and the parties who had begun the lawsuit reached an agreement that certain things should be done and this Court entered a consent agreement, which was a very lengthy document, and outlined improvements to take place in a large number of

Mawson v. Dorris, Not Reported in F.Supp. (1989)

areas.

And after that consent decree, which I think was entered into in 1981, after that was in place for awhile it seemed obvious from matters which came to the attention of the Court and other filings that were made in this case that there were still some very, very serious problems at the Luzerne County Prison, not the least of which of those problems on that day was the serious overcrowding.

Luzerne County, like many of the other counties in the State of Pennsylvania, was faced with the problem of a very, very old building that was designed in the days when many of the concepts that we think about in prison today were not even thought about.

There were no such things as recreational areas or joint rooms where inmates were allowed to meet or to congregate. There were no such things as dining rooms or even kitchens of any consequence that were included in the construction of prisons in those days. So Luzerne County had an old building and over many, many years it received short shrift in budgetary considerations and it had deteriorated badly.

I don't suppose there is any area in county or state administration that is more troublesome than in the area of the operation of the correctional system including the jails and taxpayers, indeed, have a very hard time understanding that much money should be spent on those who violate and break the laws of our country. So there's not a great deal of sympathy to upgrade prisons and the operation of correctional facilities.

Too, in this case I think in resolving it or concluding it, like I think we should do at this point, I think we do have to remember where we began.

Sometimes when matters are brought into the Federal Courts we're inclined to place everything under what we call a constitutional umbrella. We argue that certain rights people have all derive from the constitution and can only be cured by some type of action in the Federal Courts.

This really is a misconception of what the Federal Courts are all about and here, in these courts, we should be considering whether there is, indeed, conduct that amounts to constitutional deprivation when we are talking about the operations of state or local prison, because it's very clear under the law of this country that state and local institutions like this prison should be run by local authorities and not by Federal Courts.

That's not to say that we're not acutely aware that, indeed, many times local administration or failure of local administration can, indeed, result in a constitutional deprivation when you have six or seven human beings crowded into cells that were only made to house one or

two human beings.

*3 Such conditions, for instance, can rise to a constitutional deprivation even though those people are inmates and have violated the law. They do not lose all human rights and they do not lose all of their rights as citizens of this country.

So the law is clear, as I stated in the last opinion I wrote in this case, as in the Turner case and other cases that have derived therefrom, that we must provide humane treatment and humane facilities even for those who are committed to prison because they violated the law either of the state or the Federal authorities.

I'll revert again to what I mentioned a few seconds ago about the condition of this prison when this case was started, because that's where we have to look to see where we've come and everyone knows, through the efforts of everyone concerned here and particularly the efforts of the authorities in Luzerne County, the prison board and the administrator of the prison itself, there has been a new building built there and that alleviated many, many of the problems.

It almost doubled the size of the physical facilities that were available and has provided such new additions as day rooms and an excellent kitchen facility and other additions to the prison, such as classroom space and things of that nature in addition to adding or almost doubling the number of cells available.

I don't know what we can do about overcrowding beyond what's been done there. We have to keep a constant eye on that. I do know that if the authorities in Luzerne County would only accede to developing a population control counselor or control committee that would be composed of representatives of the Courts, of the probation office, of the committing officers, as well as the people at the prison, I'm convinced that would be a great help. But we can't seem to get that done although I'm still hopeful some day that will become a reality in Luzerne County. I don't think you're going to have adequate population control until that type of council or committee is organized.

The other matters we talked about today, the yard out time and the medical problems and what, at least for a time, was some serious problem of the female inmates, seem to have been attended to, certainly not ways that we can all agree upon, but I don't think there's any constitutional deprivation existing in those areas.

I find today specifically that there is no further need for the Federal intervention at the Luzerne County Prison and I'm going to grant the petition of the Defendants to terminate the Court's order and the intervention of the Master, John Case, who has been there for a number of

years.

In doing so I want to commend the authorities at the prison. We have been down there very, very often and it's not easy to run a prison with outside intervention. I think the staff of the prison has made considerable effort to upgrade the institution and to bring it up to standards that are recommended by state and national authorities.

***4** I think the prison board has been cooperative, all those who serve without a great deal of authority because they're not elected officials and sometimes they have a hard time of getting the ear of the public officials who control the purse strings.

I want to commend Mr. VanWie also and his staff for representing the inmates in a fine fashion in trying to do your best in an area where your clients sometimes are changing and it's difficult to please everyone when you're representing people who are incarcerated and whose freedom has been taken from them and who, in all candor, at times can be very troublesome people.

Mr. Blaum has been most helpful to the Court over these last few years in trying to help to keep the proceedings in an orderly fashion to bring about a responsible end to this matter.

Major Case I can't say enough about. He's an old friend of mine and it was with his help we were able to bring some expertise, some experience of a man who's had a great deal of contact around the country with the operation of prisons. He's had the job of running a major prison himself and he's a person who has deep human concerns and brings I think to this kind of a job a good deal of common sense and spirit of collegiality, trying to work with the authorities instead of just impressing our ideas on them.

I said all that seven or eight years ago. I didn't want to take over the prison. I wanted to work with you to make it a more respectable and responsible place.

I don't think anybody who could look at the operation of the prison today, and have even the faintest knowledge of

what it was eight or nine years ago, could say that there has not been a great deal of progress made in the prison.

I can only exhort the administration at this point to try now to bring certain of these complaints or certain of these still remaining problems to a point where they'll be handled in a way that's commensurate with the other improvements that have been made there.

As I said in my memorandum a few weeks ago, it would be a shame if we came all this way with the new building and facilities and let some of these human matters fester and not be attended to. If I would emphasize just one thing that remains to be done on a continual institutionalized basis, it's this idea of the meeting with the inmate administration council.

You've got to get that on a regular basis for the good of the administration and for the good of the inmates because it's these small complaints that I get almost on a weekly basis. I get letters from the prison and I have to say most of them are not major complaints. They're like hangnails, when you let them fester and go unattended, they cause more and more trouble throughout the prison. If someone is given a hearing, given a place where they can sound off, so to say, sometimes it eliminates many of those problems.

So I would direct the Defendants to continue to direct their own efforts at those few areas where some improvements can still be made.

***5** But I'm going to grant the motion of the Defendants to conclude the Court's supervision. I'm going to conclude the supervision of the Master, Major John Case. And I'll be issuing an order probably today or tomorrow concluding this matter.

So, again, I express to all of you my concern for the continual good operation of this prison and also my acknowledgement of the good work that has been done up to this date.