

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

LARRY GRAY,
RONALD ARTIS and
ALONZO PATTERSON,

Plaintiffs,

v.

BILL FERRELL, Sheriff of
Scott County, Missouri, and
LOUIS HIRSCHOWITZ, ELDON
ZIEGENHORN And DEWAINE SHAFFER,
Judges of the County Court of
Scott County, Missouri,

Defendants.

No. S81-18C

FILED

OCT 25 1982

EYVON MENDENHALL
U. S. DISTRICT COURT
E. DISTRICT OF MO.

* * * *

GLEN AVERY,

Plaintiff,

v.

BILL FERRELL, Sheriff of
Scott County, Missouri, and
LOUIS HIRSCHOWITZ, ELDON
ZIEGENHORN and DEWAINE SHAFFER,
Judges of the County Court of
Scott County, Missouri.

Defendants.

No. S81-26C

CONSENT JUDGMENT

This cause came to be heard on Plaintiffs' Complaint challenging the constitutionality of the conditions of confinement in the Scott County, Missouri Jail, and for actual damages alleged to have been suffered by the Plaintiffs. The plaintiffs' evidence has been concluded and the cause was passed for settlement.

The parties herein, being desirous of settlement of all matters in controversy, consent to this Court's entry of a Judgment which shall be binding upon the defendants and upon their successors in office, their agents and their employees.

The Court has made no findings of fact in view of the settlement entered into by the parties; however, this Consent Judgment contemplates the intention to provide a jail facility such that the inmates of the Scott County Jail will not be

deprived of rights, privileges and immunities secured to them by the Constitution of the United States. Any future interpretation of the meaning or coverage of the terms of this Consent Judgment which the Court may be required to make will be made in light of its purpose and intent as stated above.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that:

1. Defendants shall provide a safe and sanitary environment for inmates, providing the Scott County Jail with proper lighting, plumbing, heating, cooling and ventilation. All plumbing fixtures, including shower heads, urinals, commodes and wash basins shall be maintained in working order and shall be replaced or repaired as necessary as soon as practicable. The jail, including all inmate areas, shall be regularly cleaned and periodically painted in appropriate colors to maintain a clean appearance. Arrangements will be made with the Scott County Health Department to provide for random health and sanitation inspections not less often than once every six months. Monthly inspection and treatment by a commercial exterminator shall be continued.

2. By January 1, 1983, the Scott County Sheriff shall develop a manual of policies and procedures for the operation of the jail which shall include, but not be limited to, the following:

~ 60 days

- (a) Rules and regulations governing supervision and care of inmates by staff.
- (b) Staff training.
- (c) Procedures to followed in emergency situations, including fire, emergency medical and dental care, disturbances, escape and the taking of hostages.
- (d) Procedures with regard to medical and dental care and treatment, including requests for medical assistance, sick call procedure and records to be maintained.
- (e) Inmate rules and regulations to include, but not be limited to the daily jail routine, uniform commissary policy, visitation, mail, other privileges and services, disciplinary

procedures and grievance procedures.

A copy of the manual shall be filed with the Court and copies shall be delivered to attorneys for plaintiffs, who may thereafter file their comments regarding the manual.

3. The Scott County Sheriff's Department will maintain an adequate jailer staff to provide for inmate supervision and to promptly respond to inmate requirements. Under present conditions, the staff will consist of a minimum of three full-time jailers. Jailer work schedules will be arranged to permit inmates outside of their cells as long as possible each day. Normal routine will provide for inmates to be unlocked from their cells between 6:30 a.m. and 8:30 a.m. each day of the week; five days per week inmates will be locked in cells between 9:00 p.m. and 10:00p.m., and on the other two days inmates will be locked in their cells not earlier than 7:30 p.m. During the hours when a jailer is not on duty, the dispatcher on duty will be provided backup by a Deputy Sheriff on call for emergency purposes. One additional full-time jailer will be added to the staff of the jail within 90 days from the date of this Order and a second full-time jailer, bringing the complement of jailers to three, will be added to the staff not later than January 1, 1983.

4. All present and subsequently appointed jailers shall take the National Sheriffs Association's self-study Training Course for Jail Officers, and shall take the National Sheriffs Association's examination with regard to this course, to be completed within six months of being assigned to the jail. For presently assigned jailers, the foregoing self-study course shall be completed within six months of the entry of this Consent Judgment.

5. Upon admission to the jail, inmates will be provided a copy of the inmate rules and regulations and will be informed in writing of the procedures for obtaining medical and dental services. The receiving screening intake

form attached hereto as Exhibit A, or its equivalent, shall be completed on each new jail admittee. As soon as practicable after admission, an inmate will be classified for cell assignment and assigned to cells in accordance with the classification; classification criteria will include criminal history, institutional adjustment, special management needs and protective custody considerations.

6. Within 90 days from the date of this Order, the Scott County Sheriff shall retain the services of a visiting nurse to conduct a twice weekly sick call at the Scott County jail. The nurse shall, in addition to other duties, review the medical screening forms and examine each newly admitted inmate. Jail personnel shall submit the medical screening form for each inmate to the nurse, following admission, and shall insure that the recommendations of the nurse are implemented. All regular jail personnel will be trained in cardio-pulmonary resuscitation and basic first aid. Unless there is no reasonable alternative to incarceration in the Scott County Jail, an inmate who is reasonably believed to pose a threat to himself or to others by reason of mental illness or to be suicidal shall not be incarcerated in the jail until he/she has been medically evaluated by a competent physician or psychologist who has recommended that the inmate be returned to the jail. Inmates incarcerated in the jail who have been found, following proper medical evaluation, to have such a mental illness or be suicidal shall be provided appropriate medical care.

7. On being admitted to the jail, each inmate will be provided one clean fire retardant mattress, one sheet or washable mattress cover, one clean blanket, a clean towel and basic toiletries kit (to include at least a toothbrush, toothpaste, soap and safety razor). Mattresses and blankets will be cleaned as necessary to maintain a sanitary environment for inmates. Provision shall be made for the washing and drying of inmate clothing at least

twice a week. Inmates without adequate clothing shall be provided sufficient clothing to have two changes of clothing. In the event a standard jail uniform clothing procedure is adopted, inmates will be permitted to wear their own personal clothing for trial.

8. Inmates confined in cell block areas not containing a shower will be permitted to shower at least three times per week.

9. The County agrees to convert the storage room into a day room. This will add 216 square feet to the day room. This conversion shall be accomplished within 90 days.

10. A secure outdoor exercise area shall be provided. Inmates confined longer than 72 hours shall be allowed at least three hours of physical exercise and recreation outside each week (weather permitting), to be divided between not less than three exercise periods. A table will be provided in the outdoor recreational area and some sporting equipment that can be maintained and used without danger to or among the inmates or to the guards will be made available.

11. Inmates will be allowed to have non-contact visits with their relatives and friends, subject to the Sheriff's authority to limit such visitation if there are reasonable grounds to believe that visitation would pose a security risk. The visitation policy will provide for a minimum of two visitation periods per week.

12. Within 90 days from the date of this Order, telephone communication devices shall be installed in the visiting booth area.

13. Inmates shall be allowed to receive, from visitors, noncontraband items as established by the Sheriff, but shall include at a minimum soft bound books and magazines, clean clothing for trial appearances and writing materials, including postage.

14. Inmates shall be allowed to communicate by mail with anyone and shall be allowed to receive mail from anyone. Incoming and outgoing mail that is not privileged, as herein described, may be opened, read and inspected for security purposes. Privileged mail is mail from or to courts, attorneys, government agencies and officials, probation and parole officers and the media. Incoming privileged mail may be opened and inspected only in the presence of the inmate addressee, but may not be read. Outgoing privileged mail may not be opened or read. Without unnecessary delay, incoming mail shall be distributed and outgoing mail shall be delivered to the post office. The term "mail privileges" as used in this paragraph do not include sending and receipt of packages.

15. Within 90 days from the date of this Order, the Sheriff will arrange for an inspection by the State Fire Marshal. The recommendations made by the State Fire Marshal, following such inspection, will be promptly implemented to the maximum extent possible. Immediate attention will be given to installing a proper fire alarm system, heat detectors, smoke detectors and additional fire extinguishers, such installation to be completed within 90 days from the date of this Order. Thereafter, the State Fire Marshal will be requested to inspect the jail at least once every two years and make a report to the Sheriff, which report will be submitted by the Sheriff to the Judge of the Circuit Court and to the County Court.

16. The jail menu will be upgraded to be in compliance with the recommendations, based upon generally accepted minimum nutritional requirements, of a nutritionist to be engaged by the Sheriff. The nutritionist will be engaged to reevaluate the menu and provide new recommendations on an annual basis. The nutritionist engaged will be either a Registered Nutritionist or a person with sufficient background

and experience to qualify for this duty.

17. The lighting available in the cells will be measured and, if necessary, enhanced to provide at least 20 foot candles of lighting per cell, measured at point of usage.

18. A library of basic legal materials will be maintained in the jail for use by prisoners. This will include, as a minimum, a set of the Missouri Revised Statutes, copies of the United States and Missouri Constitutions, a copy of the Missouri Criminal and Civil Rules of Procedure, a copy of the Federal Criminal and Civil Rules of Procedure, a law dictionary and a basic hornbook on criminal law.

19. Inmates shall be permitted to take correspondence courses as approved by the Sheriff including, but not limited to, GED courses.

20. The policies and procedures established by the Scott County Sheriff shall include standards for the selection of Trustees and the duties that Trustees may perform. Trustees shall not be involved in the supervision of inmates nor have access to records of other inmates.

21. A written record and report of unusual incidents shall be made by jail personnel.

22. Major discipline shall be defined as disciplinary restriction to cell for longer than 24 hours, disciplinary limitation on visitation privileges, disciplinary recommendation of parole date rescission or retardation or disciplinary denial of commissary privileges. Inmates shall be provided with a hearing prior to the imposition of any major discipline. The hearing procedure shall provide the inmate with: at least 24 hour notice of the hearing; a written description of the charges, which shall include the sanctions that may be imposed; the right of the inmate to present witnesses unless doing so would unduly affect security and order; the right of inmates to confront and question accusers, unless the accusers are fellow inmates, in which case the accusers shall be questioned outside

before an uninvolved jail staff member; and a written statement of conclusions from said uninvolved jail staff member which is based solely on the evidence adduced at the hearing. A copy of the form used to provide notice is attached hereto as Exhibit B. Provided however, this major discipline procedure shall in no way limit the right of the Sheriff's Department to cause complaints arising from the conduct of inmates to be processed as formal criminal charges.

23. The sum of \$25.00 is awarded to Plaintiffs Avery, and Artis; the sum of \$200.00 is awarded to Plaintiff Patterson; Plaintiff Gray's claim for damages is expressly reserved for the Court's determination.

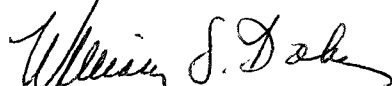
24. Expenses and costs in the amount of \$2,200.00 incurred by Plaintiffs' attorneys shall be taxed as costs to the defendants.

25. After consideration and study of plaintiffs' attorneys' fees claims, it has been determined that the following attorney fees shall be paid by Defendant Ferrell:

Richard Goldstein	\$1,100.00
Francis J. Siebert	700.00
J. Michael Payne	700.00
TOTAL	<u>\$2,500.00</u>

26. This Court shall reserve jurisdiction over this action for a period of one year to insure compliance with the provisions set forth herein.

Dated this 21 day of ~~September~~ ^{October}, 1982.


UNITED STATES MAGISTRATE

APPROVED FOR ENTRY AND
CONSENTED TO BY:


WILLIAM FERRELL
Sheriff of Scott County, Missouri


LOUIS HIRSCHOWITZ
Presiding County Court Judge
Scott County, Missouri

Eldon Ziegenhorn
ELDON ZIEGENHORN
Associate County Court Judge,
Scott County, Missouri

Dewaine Shaffer
DEWAINE SHAFFER
Associate County Court Judge,
Scott County, Missouri

LIMBAUGH, LIMBAUGH, RUSSELL & SYLER

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Gray v. Ferrell



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