

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

UNITED STATES OF AMERICA,
Plaintiff,

File No. G84-63 CA

STATE OF MICHIGAN;
JAMES J. BLANCHARD, Governor of
Michigan;
MICHIGAN CORRECTIONS COMMISSION;
HEN ANDREW, Chairman, Michigan
Corrections Commission;
THOMAS EARDLEY;
ROBERT COTTON;
WAYNE WATERS;
HENRI LE DUC
Members, Michigan Corrections
Commission;
MICHIGAN DEPARTMENT OF CORRECTIONS;
ERRY M. JOHNSON, Director, Michigan
Department of Corrections;
BERT BROWN, JR., Deputy Director,
Michigan Department of Corrections;
LE FOLTZ, Regional Administrator,
State Prison of Southern Michigan;
M. JABE, Warden, Michigan Reformatory;
RODRE KOEHLER, Warden, Marquette
Branch Prison;
PRELESNIK, Administrator,
Reception and Guidance Center,
State Prison of Southern Michigan;
BERGMAN, Administrator, Michigan
Intensive Programming Center,

Defendants.

ORDER

In accordance with the oral opinion of April 20, 1990;
IT IS HEREBY ORDERED that the following provisions are rated
compliant:

U.S. v. Michigan



PC-MI-0007-0007

00690

Fire Safety

04 Combustibles Storage	SPSM
14 Fixed Dry Chemical Extinguisher	SPSM
16 Adequate Egress Plan	MR
25 Enclose Stairs - Two-hour Fire Resistance	MR
26 Breathing Apparatus	MR, SPSM, MBP
28 Fire Separation - Cellblocks	SPSM
32 Magnetic Hold-open Devices	SPSM
36 Remote Electric Release Locks	SPSM

Sanitation

02 Duplex Outlets - Adequate Light	MR, SPSM
08 Pipe cases and Sewers Maintained	MR, SPSM, MBP
15 Food Service Sanitation	MR, SPSM
18 Barbering	SPSM
20 Hot and Cold Water	MR
26 Correct Existing Plumbing	MR, SPSM

Sanitation Plans

12 Mattress Sanitation	MR, SPSM
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Sanitation 7/27/87 Order

07 SPSM Bird/Vermin Control	SPSM
12 Outlet/Lighting Plan	MR, SPSM

Overcrowding & Protection from Harm

24 Sufficient Staff	SPSM
25 Out-of-cell Plan	MR, SPSM, MBP
30 Admin Seg & PC Exercise	MR, SPSM, MBP
31 Operational Locks	SPSM
32 Indoor exercise	MBP
34 MR cell size project	MR

IT IS FURTHER ORDERED that defendants' motion for modification of the shower provision is GRANTED. Section II, Paragraph C of Appendix A of the State Plan is AMENDED to read as follows:

Each prisoner shall be afforded the opportunity to shower at least three times per week. Prisoners in administrative or disciplinary segregation who are disruptive, disobedient, assaultive or who threaten such behavior when being escorted by Correctional Officers, may be restricted to one shower per week, provided that the Deputy Warden

documents in writing the basis for the restriction and that the restriction not be imposed for longer than thirty days. The restriction may be extended for additional periods of not more than thirty days upon written explanation of the Deputy Warden, based on subsequent escort related misconduct.

IT IS FURTHER ORDERED that the defendants' motion for modification of the Consent Decree provision mandating a two hour fire separation in the gun posts is DENIED. The COURT further ORDERS the parties to confer to develop an appropriate solution to this problem. If a solution is not jointly proposed to the Court by August 1, 1990, the Independent Expert shall recommend a solution to the Court.

IT IS FURTHER ORDERED that plaintiffs' motion for further relief under Paragraph D of the Consent Decree is GRANTED. Defendants shall submit a plan under Section K of the Consent Decree containing the measures summarized in the Bolden Status Report dated 4-11-90. This plan shall provide the degree of detail and the methods for on-going maintenance of compliance with the provisions in the Bolden Status Report.

IT IS FURTHER ORDERED that defendants' motion to modify dates for architect selection and planning funds released by the Joint Outlay Subcommittee (JCOS) for the new mental health facility is DENIED as moot.

IT IS FURTHER ORDERED that defendants' motion to modify completion dates for renovation projects in the Consent Decree's Sanitation and Crowding/Protection provision is DENIED. Defendants shall develop a plan pursuant to Section K of the Consent Decree

that identifies each project, the scope of work associated with the project, the provisions affected by the project, and a realistic but definite time table for completion of the project that includes significant interim milestones.

IT IS FURTHER ORDERED that the Knop amicus' motion for enforcement of the State Plan for Compliance for further relief and for clarification is GRANTED IN PART and DENIED IN PART as follows:

A. Enforcement of Certain State Plan Provisions. This motion has been GRANTED in that defendants have been ordered to provide a Section K plan as provided for above.

B. Building Trades Inspection Deficiencies. This motion is GRANTED. Defendant shall develop a Section K plan addressing the deficiencies identified in the recent Building Trades Inspection Reports.

C. Development of a Section K Plan on Toxic Waste. This motion is DENIED.

D. Require Defendants to Cease Denying Exercise to Prisoners Except as Permitted Under State Plan. This motion is GRANTED. Within ninety days of this Order, defendants will modify their conduct with respect to denying prisoners' access to exercise and will comply with the plain language of the State Plan.

E. Clarification of the Definition of Inclement Weather and Recreation Access During Inclement Weather. This motion is GRANTED. Defendants may either adopt the following definition of inclement weather:

1. The exercise yard is covered with snow, ice or water;
2. The temperature is below twenty degrees;
3. It is raining;
4. The wind is blowing at twenty-five miles per hour or more;
5. There is a weather-related safety threat such as lightning or tornado;

or they may continue their actual current practice at Marquette Branch Prison of offering general population prisoners access to at least three (3) hours per prisoner per week of indoor exercise in addition to yard time.

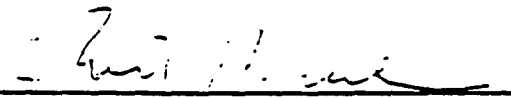
F. Access to Consent Decree Related Documents. This motion is DENIED.

G. Retaliation. This motion is DENIED.

IT IS FURTHER ORDERED that the Knop amicus' motion to enforce food loaf order is GRANTED in part. PB-BCF-50.04 shall be amended to reflect that the required hearing upon imposition of food loaf be held within three days of the imposition of food loaf.

IT IS FURTHER ORDERED that the Knop amicus' motion for a preliminary injunction is DENIED WITHOUT PREJUDICE.

Dated: 5/1/90



RICHARD A. ENSLEN
United States District Judge