

Consent Decrees

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
FILED

APR 20 1981

JESSE E. CLARK, CLERK  
BY DEPUTY *[Signature]*

DAVID RUIZ, ET AL.,                   §  
Plaintiffs,                           §  
  §  
UNITED STATES OF AMERICA,       §  
Plaintiff-                           §  
Intervenor,                         §  
  §  
V.                                       §  
  §  
W. J. ESTELLE, JR., ET AL.,       §  
Defendants.                           §

CIVIL ACTION NO. H-78-987

CONSENT DECREE

Pursuant to the Order of the Court of December 12, 1980, the parties to this cause have met and agreed, through counsel, as hereafter set out, on the provisions of an injunctive Order to be entered regarding the areas covered by their agreement. The Defendants have entered into such agreement with the express understanding that their agreement is not an admission of liability in any sense, and particularly is not an admission of bad faith. Further, Defendants expressly make it known that in their view the agreement hereafter set out in some respects goes beyond minimal, constitutional requirements, but they have entered into said agreement in a good faith effort to terminate this litigation in the areas covered by the agreement and to preclude the need for appeal as to such areas. Defendants, however, in executing this agreement expressly reserve the right to withdraw their consent thereto as to any part of this agreement which is not incorporated in the form hereafter set out in the final Order of the Court to be entered for the purpose of effectuating said agreement.

The major areas covered by this Decree are in full and complete compromise and settlement of any and all claims regarding such areas and, if Defendants fully comply with the provisions of this Decree, Plaintiffs and Plaintiff-Inter-

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venor agree that neither will request any further relief from the Court on any of these areas except (1) as to the status of the Huntsville Hospital facility and conditions of administrative segregation confinement (extent of recreation; number of prisoners in administrative segregation cells and prohibition of routine use of administrative segregation pending disciplinary hearings) and (2) past, present and future individual claims of class members. Plaintiffs and Plaintiff-Intervenor agree that enforcement of this Decree will be limited to appropriate motions to effectuate the provisions of this Decree. No additional requirements beyond those expressly stated in the Decree will be requested of the Court except to the extent necessary to enforce the provisions of this Decree. Construction of the Decree will be governed by the ordinary and reasonable interpretation of the language therein so as to preclude any strained interpretation, the effect of which is to incorporate standards or relief beyond that agreed to in the Decree.

Accordingly, upon the Stipulation of the parties, dated as of February 10, 1981, Defendants, their successors, agents and employees (referred to collectively as "Defendants") are hereby ENJOINED as follows:

B. Health Precautions

Defendants shall scrupulously follow Rules 4.3.4.2.4 and 4.3.4.2.7 of the Rules and Regulations and Grievance Procedures of TDC (1975) requiring physical examinations of all prisoners entering solitary confinement and monitoring of the physical and mental health of prisoners confined to solitary.

C. Solitary Diet

Prisoners held in solitary confinement will be fed the same daily full rations as the general inmate population during all the time that they are held in solitary.

IV. USE OF CHEMICAL AGENTS

By April 1, 1981, Defendants shall develop and file clear, concise written standards governing use of chemical agents, including (1) the filing of written reports on each use of chemical agents by TDC personnel and prompt and effective discipline of TDC personnel who violate the standards for use of chemical agents; (2) prompt examination, necessary treatment and necessary decontamination by medical personnel of all prisoners exposed to chemical agents and ventilation of the area in which the agents were used unless additional decontamination is required by the circumstances; (3) where reasonably feasible, review of the medical records of a prisoner prior to the use of chemical agents on him to ascertain whether the use of chemical agents is medically contraindicated; and (4) prohibition of use of chemical agents on prisoners confined to cells or other similar enclosures who do not present an imminent threat of injury to other persons. Further, the standards shall limit the use of chemical agents to the minimum necessary to prevent escape or imminent serious personal injury or property damage.

V. WORK SAFETY AND HYGIENE

By September 1, 1981, Defendants shall file with the Court a proposed work safety and hygiene plan prepared with the assistance of personnel from the United States Bureau of Prisons. The plan shall cover all TDC prisoner work operations and shall include the following elements: employment and necessary training of work safety and hygiene professionals, or other personnel, with authority to require security and

administrative personnel to comply with their recommendations when circumstances are found to exist which pose an imminent or serious threat to health and safety, subject to review of such action at the earliest possible time by the Director of TDC or his designate; adequate record keeping; and safety and hygiene inspections by safety and hygiene professionals or other trained personnel.

VI. ADMINISTRATIVE SEGREGATION

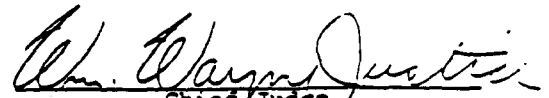
By September 1, 1981, Defendants shall file with the Court a plan setting forth:

1. the circumstances under which prisoners may be confined to administrative segregation;
2. the procedures conforming to the requirements of Wolff v. McDonnell, 418 U.S. 539 (1974) and Wright v. Enomoto, 462 F. Supp. 397 (N.D. Cal. 1976), aff'd 434 U.S. 1052 (1978); and
3. regular and frequent review of prisoners confined to administrative segregation, including the standards for such review.

VII. DEVELOPMENT AND FILING OF PLANS: SPECIAL MASTER

As required by the Court's Order of December 12, 1980, in developing the plans required by this Decree, Defendants shall address the relevant facts and conclusions contained in the Court's Memorandum Opinion of December 12, 1980. The parties understand that, by entering into the Consent Decree, there has been no agreement whether a Special Master will be appointed, or as to the role of a Special Master, including whether the agreements in this Consent Decree will be part of the reference to a Special Master.

SIGNED and ENTERED this 3rd day of March, 1981.

  
Chief Judge  
United States District Court  
Eastern District of Texas  
Judge Presiding

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS

DAVID RUIZ, et al., <i>Plaintiffs,</i>	)	
UNITED STATES OF AMERICA, <i>Plaintiff-Intervenors,</i>	)	Civ. A. No. H-78-987
v.	)	First Consent Decree
W.J. ESTELLE, JR., et al., <i>Defendants.</i>	)	March 3, 1981.

Pursuant to the Order of the Court of December 12, 1980, the parties to this cause have met and agreed, through counsel . . . on the provisions of an injunctive Order to be entered regarding the areas covered by their agreement. The Defendants have entered into such agreement with the express understanding that their agreement is not an admission of liability in any sense, and particularly is not an admission of bad faith. Further, Defendants expressly make it known that in their view the agreement hereafter set out in some respects goes beyond minimal, constitutional requirements, but they have entered into said agreement in a good faith effort to terminate this litigation in the areas covered by the agreement and to preclude the need for appeal as to such areas. Defendants, however, in executing this agreement expressly reserve the right to withdraw their consent thereto as to any part of this agreement which is not incorporated in the form hereafter set out in the final Order of the Court to be entered for the purpose of effectuating said agreement.

The major areas covered by this Decree are in full and complete compromise and settlement of any and all claims regarding such areas and, if Defendants fully comply with the provisions of this Decree, Plaintiffs and Plaintiff-Intervenor agree that neither will request any further relief from the Court on any of these areas except (1) as to the status of the Huntsville Hospital facility and conditions of administrative segregation confinement (extent of recreation; number of prisoners in administrative segregation cells and prohibition of routine use of administrative segregation pending disciplinary hearings) and (2) past, present and future individual claims of class members. Plaintiffs and Plaintiff-Intervenor agree that enforcement of this Decree will be limited to appropriate motions to effectuate the provisions of this Decree. No additional requirements beyond those expressly stated in the Decree will be requested of the Court except to the extent necessary to enforce the provisions of this Decree. Construction of the Decree will be governed by the ordinary and reasonable interpretation of the language therein so as to preclude any strained interpretation, the effect of which is to incorporate standards or relief beyond that agreed to in the Decree.

Accordingly, upon the Stipulation of the parties, dated as of February 10, 1981, Defendants, their successors, agents and employees (referred to collectively as "Defendants") are hereby enjoined as follows. . . .

### III. Solitary Confinement

A. Term of Solitary Confinement. Defendants shall not confine any prisoner to more than one fifteen-day term in solitary confinement without

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holding a hearing conforming to the requirements of due process procedures which are applicable to prison disciplinary proceedings for each term in solitary confinement beyond the initial term. Consecutive disciplinary punishments are permitted only for violations arising from totally separate incidents.

B. Health Precautions. Defendants shall scrupulously follow Rules 4.3.4.2.4 and 4.3.4.2.7 of the Rules and Regulations and Grievance Procedures of TDC (1975) requiring physical examinations of all prisoners entering solitary confinement and monitoring of the physical and mental health of prisoners confined to solitary.

C. Solitary Diet. Prisoners held in solitary confinement will be fed the same daily full rations as the general inmate population during all the time that they are held in solitary. . . .

#### VI. Administrative Segregation

By September 1, 1981, Defendants shall file with the Court a plan setting forth:

1. the circumstances under which prisoners may be confined to administrative segregation;
2. the procedures conforming to the requirements of *Wolff v. McDonnell*, 418 U.S. 539 (1974) and *Wright v. Enomoto*, 462 F. Supp. 397 (N.D.Cal.1976), *aff'd* 434 U.S. 1052 (1978); and
3. regular and frequent review of prisoners confined to administrative segregation, including the standards for such review.

#### VII. Development and Filing of Plans: Special Master

As required by the Court's Order of December 12, 1980, in developing the plans required by this Decree, Defendants shall address the relevant facts and conclusions contained in the Court's Memorandum Opinion of December 12, 1980. The parties understand that, by entering into the Consent Decree, there has been no agreement whether a Special Master will be appointed, or as to the role of a Special Master, including whether the agreements in this Consent Decree will be part of the reference to a Special Master.

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