



PC-VI-002-002

IN THE UNITED STATES DISTRICT COURT FOR THE

DISTRICT OF THE VIRGIN ISLANDS; *DIVISION of ST. CHARLES*

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 THE VIRGIN ISLANDS: JUAN LUIS,)
 GOVERNOR, U.S. Virgin Islands;)
 EDWIN POTTER, Director, Bureau)
 of Corrections; ISIDORE BELL,)
 Warden, Golden Grove Adult)
 Correctional Facility;)
)
 Defendants.)

Civil Action
 88-2
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 CLERK OF THE
 DISTRICT COURT
 ST. CHARLES, V.I.

CONSENT DECREE

1. This case was filed by the plaintiff on November 21, 1986, pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. 1997.
2. This Court has jurisdiction over this action pursuant to 28 U.S.C. 1345.
3. Venue is appropriate pursuant to 28 U.S.C. 1391(b).
4. The United States is authorized to institute this action pursuant to 42 U.S.C. 1997a and has met all prefiling requirements stated in that statute.
5. The Defendants are the Virgin Islands of the United States; the Honorable Juan Luis, Governor of the Virgin Islands; Edwin Potter, Director, Bureau of Corrections, and Isidore Bell, Warden of the Golden Grove Adult Correctional Facility.

6. The Defendants have authority and responsibility for the operation of the Golden Grove Adult Correctional Facility and are officers of the Executive Branch of the Virgin Islands.

7. On May 28, 1985, the Attorney General of the United States, by and through the Assistant Attorney General, Civil Rights Division, Wm. Bradford Reynolds, notified the Governor of the Virgin Islands of his intention to investigate alleged unconstitutional conditions of confinement at the Golden Grove Adult Correctional Facility, St. Croix, Virgin Islands, pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. 1997.

8. Following a thorough investigation of conditions at Golden Grove, on January 23, 1986, the Assistant Attorney General for Civil Rights informed Governor Juan Luis of the findings of the United States that the Attorney General had reasonable cause to believe that inmates confined to the Golden Grove Adult Correctional Facility were being subjected to egregious or flagrant conditions that deprive them of their rights, privileges or immunities secured by the Constitution.

9. The parties agree that the confinement of inmates at Golden Grove implicate rights, privileges or immunities of these inmates which are secured and protected by the Constitution of the United States. The parties entering into this Decree recognize these constitutional interests and for

the purpose of avoiding protracted and adversarial litigation, agree to the provisions set forth herein.

10. In entering into this Consent Decree, Defendants do not admit any violation of law and this Consent Decree may not be used as evidence of liability in any other proceeding.

11. The provisions of this Consent Decree are a fair, appropriate and adequate resolution of this case.

12. This Consent Decree shall be applicable to and binding upon all of the parties, their officers, agents, employees, assigns and their successors.

I. Purposes and Objectives

The Virgin Islands and the United States stipulate and agree that the purposes and objectives of this Consent Decree are to establish as promptly as practicable the following conditions at Golden Grove Adult Correctional Facility in order to ensure that both pretrial detainees and convicted inmates at the facility are not being deprived of rights, privileges or immunities secured to them by the Constitution of the United States.

1. Defendants shall protect inmates from unreasonable fire safety risks to their lives and safety.

2. Defendants shall provide such security and staff supervision to protect inmates from wanton and reckless physical violence by other inmates or staff.

3. Defendants shall provide minimally adequate sanitation to protect inmates from unreasonable risks to their physical health.

4. Defendants shall provide minimally adequate medical care for the serious medical needs of inmates.

These purposes and objectives shall be achieved at the Golden Grove Adult Correctional Facility by implementing the requirements set forth in Part II and by developing and implementing the plans described in Part III of this Consent Decree.

II. Conditions Requiring Immediate Correction

In order to eliminate conditions which pose an immediate threat to life, health and safety of inmates at Golden Grove, the Virgin Islands agrees to meet the following requirements within 30 days after entry of this Consent Decree:

1. All fire hazards will be removed from inmate cells;
2. At all times, at least one guard will be on duty and present in each inmate living unit; and
3. All living units will have adequate means to safely evacuate inmates in case of emergency.

III. Plans

In order to ensure compliance with this Consent Decree, the Virgin Islands shall file with the Court no later than November 1, 1986, its plan(s) for implementing this Consent Decree. Such plan(s) shall set forth:

1. The procedures to be used (a) to provide for the emergency evacuation of each building at Golden Grove that houses inmates or detainees, (b) to ensure that all emergency equipment is functional, (c) to ensure that all emergency exits are functional, and (d) to identify and correct conditions which are fire hazards.
2. The procedures and equipment to be used to provide adequate security within Golden Grove, including policies and equipment that will ensure adequate communication among all units, and policies relating to the deployment of staff.
3. The procedures to be utilized to provide minimally adequate sanitary conditions in the food service area and in inmate living areas.
4. The steps to be taken (a) to provide for adequate medical care in medical emergencies and (b) to provide medical care for the serious medical needs of inmates, including procedures to provide for appropriate storage and administration of medications.
5. The strategies to be utilized to provide that sufficient numbers of qualified staff are employed to implement the conditions set forth in paragraphs 1-4 above.

All plans shall state in specific terms and reasonable detail the actions to be taken by the Defendants, the dates of such actions, the text of procedures, regulations, or orders to be promulgated and issued by the Defendants. All plans shall also state the specific date or dates by which each item above shall be implemented in toto, but in no event shall the final implementation date of a plan be later than June 1, 1988.

IV. Construction and Implementation

In construing and implementing the terms of this Decree, the following are agreed to by the parties:

1. A. The United States shall have sixty (60) days from receipt of any plan in which to file a response to the plan with the Court. If the United States objects to any plan or portion thereof filed by the Defendants, Defendants and Federal officials shall meet in a good faith effort to resolve their differences. If the Defendants and Federal officials are unable to resolve their differences through negotiation the adequacy of the contested portions of the proposed plan to achieve the purposes and objectives set forth in Part I of this Consent Decree shall be determined by the Court. Defendants shall have the burden to persuade the Court that the plan is adequate under this standard.

B. If, after a plan is approved, Defendants decide to modify that plan or any portion thereof, Defendants shall notify the Court and the United States of the proposed

modification. The United States shall have sixty (60) days from the receipt of any proposed modification in which to file a response to the proposed modification with the Court. If the United States objects to the modification sought, Defendants and Federal officials shall meet in a good faith effort to resolve their differences concerning the proposed modification. If Defendants and Federal officials are unable to resolve their differences through negotiation, the adequacy of the proposed modification to achieve the purposes and objectives set forth in Part I of this Consent Decree shall be determined by the Court. The Defendants shall have the burden to persuade the Court that the modified plan is adequate under this standard.

C. Plans, including modification of plans, to which the United States do not timely object, shall be deemed approved by the Court.

2. A. Defendants shall submit periodic compliance reports to the United States and the Court. The first report shall be filed on December 15, 1986. Thereafter, the reports shall be filed quarterly, fifteen (15) days after the end of each quarter continuing until such time as this Consent Decree is terminated.

B. The compliance reports shall describe the Defendant's progress towards implementation and compliance with the provisions of this Consent Decree and the plan(s) submitted pursuant thereto.

3. The United States and its attorneys, consultants, and agents shall have reasonable access to the facilities, records, residents, and employees of the Golden Grove Adult Correctional Facility upon reasonable notice to the State for the purpose of ascertaining compliance with the Decree. Such access shall continue until this Consent Decree is terminated.

4. All parties shall bear their own costs, including attorney fees.

V. Termination of Decree

1. The parties contemplate that the defendants shall have fully and faithfully implemented all provisions of this Consent Decree, and plans herein required to be submitted and approved by the Court, on or before June 1, 1988.

2. The Court shall retain jurisdiction of this action for all purposes under this Consent Decree until the Defendants shall have fully and faithfully implemented all provisions of the Consent Decree and plans submitted pursuant thereto and until the judgment be discharged.

3. All plans required under this Decree shall be submitted for approval by the Court and, if approved, shall be issued as orders of the Court and enforceable as such.

4. On or after the date on which the Defendants shall have fully and faithfully implemented all provisions of this Consent Decree and plans submitted thereto, the Defendants may move that the injunctions entered herein be dissolved, the judgment discharged, jurisdiction terminated, and the

case closed and dismissed with prejudice on ground that the defendants have fully and faithfully implemented and maintained all provisions of this Consent Decree and plans submitted pursuant thereto.

5. Dismissal shall be granted unless, within sixty (60) days after receipt of the Defendants' motion, the United States objects to the motion. If such an objection is made with particularity, the Court shall hold a hearing on the motion and the burden shall be on the United States to demonstrate that the Defendants have not fully and faithfully implemented all provisions of this Consent Decree or any approved plan(s) or any part thereof and, if objection is based upon failure to implement any plan or part thereof, that such plan or part thereof is essential to the achievement of one or more of the purposes and objectives set forth in Part I of this Consent Decree. If the United States fails to meet this burden, the injunctions shall be dissolved, this judgment shall be discharged jurisdiction shall be terminated forthwith, and the case shall be closed and dismissed with prejudice.

Consented to by the undersigned:

FOR THE VIRGIN ISLANDS

FOR THE UNITED STATES OF AMERICA

Juan Luis
Date 7-24-86
JUAN LUIS
Governor

W. Bradford Reynolds Date 10-29-86
~~W. BRADFORD REYNOLDS~~
Assistant Attorney General
Civil Rights Division

Leroy Mercer 7/11/86
LEROY MERCER
Attorney General

James W. Diehm 11/7/86
JAMES W. DIEHM
United States Attorney
District of the Virgin Islands

Edwin Potter
EDWIN POTTER
Director
Bureau of Corrections

Arthur E. Peabody, Jr. 8/4/86
ARTHUR E. PEABODY, JR.
Chief
Special Litigation Section

Isidore Bell ✓
ISIDORE BELL
Warden
Golden Grove Adult Correctional
Facility

V. Colleen Miller 10/30/86
V. COLLEEN MILLER
Attorney
U.S. Department of Justice
Civil Rights Division
Washington, D.C. 20530

WHEREFORE, the parties to this action having agreed to the provisions in the Consent Decree set forth above, and the Court being advised in the premises, this Consent Decree is hereby entered as the JUDGMENT of this Court.

SO ORDERED this 15th day of December, 1986, at St. Thomas, Virgin Islands.

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CLERK OF THE
DISTRICT COURT
ST. THOMAS, VI.
DEC 1 1 04 PM '86

Donald V. O'Brien
UNITED STATES DISTRICT JUDGE