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FILED

APR 16 1993

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY [Signature]
DEPUTY CLERK

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MICHAEL HARRIS, et al.,

NO. CIV. S-90-394 LKK

Plaintiffs,

v. [Redacted]

ORDER

COUNTY OF PLACER, et al.,

Defendants.

on April 8, 1993

This is a class action by prisoners in the Placer County Jails who allege that the conditions of their confinement violate the U.S. Constitution. The complaint was filed on March 29, 1990. On July 20, 1990, the class was certified pursuant to Fed. R. Civ. P. 23(b)(2) to include all prisoners in Placer County Jails since March 21, 1990.

The parties have negotiated a settlement of their claims. On October 8, 1992, the court ordered defendants to post copies of a proposed consent decree and allowed class members until November 27, 1992, to file written objections with the court. The

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1 parties have certified that the proposed decree was duly posted.

2 On January 29, 1993, Magistrate Judge Nowinski filed his
3 findings and recommendations recommending that this court strike
4 paragraph IV(G) of the proposed order (page 6, lines 19-26)
5 relating to safety cells, and approve the order lodged by the
6 parties as so modified. Each party was provided 10 days after
7 service by which to file written objections. Neither party has
8 objected to these findings and recommendations.

9 On April 9, 1993, the proposed order was inadvertently filed
10 without a ruling by this court as to the findings and
11 recommendations of the presiding magistrate judge.

12 Accordingly, for good cause, IT IS HEREBY ORDERED as follows:

13 1. The magistrate judge's January 29, 1993 Findings and
14 Recommendations are ADOPTED in full;

15 2. The order lodged by the parties and filed by the court
16 on April 9, 1993 is APPROVED except that paragraph IV(G) of the
17 proposed order (page 6, lines 19-26), relating to the "safety cell"
18 issue, is STRICKEN. Plaintiffs with complaints of non-compliance
19 with the order are specifically directed to paragraph VII (A) and
20 (B) relating to the procedure for seeking remedies for decree
21 violations.

22 IT IS SO ORDERED.

23 DATED: April 14, 1993.

24 
25 LAWRENCE K. KARLTON
26 CHIEF JUDGE EMERITUS
UNITED STATES DISTRICT COURT

FILED

IN THE UNITED STATES DISTRICT COURT APR 9 1993
FOR THE EASTERN DISTRICT OF CALIFORNIA

CLERK, U. S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY DEPUTY CLERK

MICHAEL HARRIS, et. al.,
Plaintiffs,

CIV S-90-394 LKK PAN

vs.

ORDER

COUNTY OF PLACER, et. al.,
Defendants.

I. INTRODUCTION

In settling the above-captioned action, the parties have agreed to a stipulated judgment (hereafter the "Judgment") to resolve all issues raised by this lawsuit. The terms of this Judgment are set forth at length herein. All parties agree and understand that this Judgment is to have no res judicata, collateral estoppel, or other binding effect outside the terms of this Judgment.

The intent of the parties is that inmates with 42 U.S.C. §1983 claims, or other viable claims, not encompassed by this Judgment, will not be precluded from filing suit as they ordinarily would. Only those claims that are governed by this Judgment will be affected by the procedures set forth in Section VII. On the other hand, claims that have nothing to do with this Judgment will not benefit from its terms and provisions.

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1 II. SCOPE OF THE JUDGMENT

2 This Judgment encompasses the present Placer County Main
3 Jail and the Minimum Security Barracks in Auburn, California, the
4 Honor Work Camp at Whitmore as well as the Tahoe City Jail where
5 applicable. This Judgment may refer to all of these jail
6 facilities from time to time as the "Placer County Jail system."
7 This Judgment encompasses the previously defined class (hereafter
8 "inmate" or the "inmates": all present and future prisoners in
9 the Placer County Jail system). The Judgment binds the present
10 defendants, their agents and successors (at times referred to
11 herein as "the County")

12 This Judgment does not contemplate any paid monitoring of
13 the terms and conditions of the Judgment. Nothing in this
14 Judgment would preclude attorneys' fees from being paid in
15 accordance with law in the event that enforcement of this
16 Judgment pursuant to Section VII resulted in litigation.

17
18 III. PERIOD OF THE JUDGMENT

19 All provisions of this Judgment shall remain in effect until
20 modified or terminated by order of the court. Any party may seek
21 to modify or terminate this Judgment pursuant to the standards
22 set forth in Rufo v. Inmates of Suffolk County Jail, __ U.S. __,
23 112 S.Ct. 748, 116 L.Ed 2d 867 (1992).

24
25 IV. SUBSTANTIVE TERMS

26 A. Population Cap

27 1. Defendants shall not house any inmate in a facility
28

1 encompassed by this Judgment who is not given an assigned housing
2 bed. By the terms of this Judgment, defendants are enjoined from
3 sleeping any inmate on the floor.

4 2. At present, the Main Jail has a State Board of
5 Corrections (BOC) capacity of 344; the Minimum Security Barracks
6 have a maximum assigned bed capacity of 156, the Whitmore Honor
7 Camp has a maximum bed capacity of 86 for the six months it is in
8 operation, the Tahoe City Jail has a rated capacity of 5.

9 As to the Tahoe City Jail, inmates shall be held for no more than
10 forty-eight hours, except by voluntary written agreement of an
11 inmate to stay more than forty-eight hours, and Trustees may
12 continue to be housed in the Trustee Dorm. The rated capacity
13 for specific cells or groups of cells within the Main Jail and
14 other facilities are set forth in Attachment 1 herein.

15 If the County of Placer desires to add housing beds in a
16 facility or within specific cells or units in the main jail
17 facility, the following provisions shall apply:

18 (a) In no event shall an increase in housing beds take
19 place unless an increase in rated capacity is authorized by the
20 State Board of Corrections;

21 (b) Prior to filing a formal application to the State Board
22 of Corrections to increase the rated capacity of any facility,
23 Defendants shall contact Paul Persons, in writing, relating that
24 it is the intention of the County of Placer to add housing beds
25 to a specific facility. Any of Plaintiff's counsel, may, within
26 15 days of the written contract, then schedule a meet and confer
27 with County officials regarding the proposed expansion of housing
28

1 beds. The meet and confer will be held within a reasonable time
2 from the date of the written contact;

3 (c) If the issues discussed at the meet and confer are not
4 resolved, the County may then proceed with its application to the
5 State Board of Corrections and the Plaintiff's counsel may
6 proceed as they believe appropriate;

7 (d) No attorneys fees are awardable either to the County or
8 to the Plaintiff's counsel for time expended in the meet and
9 confer.

10 3. The Sheriff of Placer County is authorized by this
11 Judgment to release or refuse to accept inmates into the jail
12 facilities affected by this Judgment beginning whenever said
13 facilities, or any one of them, is within ten percent of being
14 filled to maximum capacity as defined by paragraphs IV (A)(2)
15 above. The Sheriff shall release or refuse to accept inmates
16 into the facilities, or any one of them, whenever the facilities,
17 or any one of them, is filled to capacity as defined by
18 paragraphs IV (A)(2) above. Specifically, with respect to the
19 Main Jail the Sheriff is also authorized by this Judgment to
20 release or refuse to accept inmates into identifiable units
21 within the Main Jail whenever said identifiable unit is within
22 ten percent of its specific BOC rated capacity; the Sheriff shall
23 release, or refuse to accept, inmates into the identifiable units
24 within the Main Jail whenever the identifiable units are filled
25 to capacity as defined by paragraphs IV (A)(2) above and in
26 Attachment 1.

27 / / /
28

1 B. Law Library

2 The Placer County custodial Law Library facility will be
3 located at the Main Jail. The agreed upon law library inventory
4 is attached to this Judgment as Attachment 2. The defendants
5 agree to maintain and properly update the materials set forth in
6 Attachment 2 consistent with standard library practices.

7 All inmates shall have access to the law library located at
8 the Main Jail. Pro per inmates shall have access to the library
9 at least five days per week. All other inmates may have access
10 to the law library within 48 hours of their request, excluding
11 weekends and holidays. Inmates shall not be discouraged from
12 using the law library. Inmates may agree to have books brought
13 to them in lieu of visiting the library itself; however, that
14 matter is at the discretion of the inmate. Inmates who abuse
15 their law library rights/privileges, i.e., inmates who use the
16 library for other than a bona fide attempt at legal
17 research/writing, may have their access to the library curtailed.

18 C. Medical, Dental, Mental Health Care

19 Medical, Dental and Mental Health Care is presently being
20 provided to inmates of the Placer County Jail system by
21 California Forensic Medical Group, Inc. under a contract with the
22 County. At the present time, these services are accredited by
23 the California Medical Association (CMA). Defendants will make
24 reasonable good faith efforts to maintain the CMA Accreditation
25 for the services provided in the Placer County Jail system.

26 D. Food, Visiting and Clothing

27 Food, visiting and clothing will be provided to the inmates
28

1 in accordance with Sections 1246, 1249, 1260, 1262 and 1062 of
2 Title 15 of the California Code of Regulations, except that
3 Whitmore inmates shall have at least 1 1/2 hours of visiting time
4 on one occasion each week pursuant to a weekend visiting schedule
5 established by the facility commander.

6 E. Recreation

7 All inmates shall be provided access to outdoor exercise on
8 an average of one hour per day, five (5) days per week, except
9 inmates in disciplinary lockdown, administrative segregation, and
10 the classification unit. Inmates in the classification unit are
11 not anticipated to remain in that unit for more than three days.
12 Inmates shall ordinarily have access to the dayrooms areas for
13 twelve (12) hours each day, with the exception of inmates in
14 disciplinary lockdown. Inmates shall be provided access to indoor
15 exercise during inclement weather.

16 F. Probable Cause Hearings

17 Defendants will provide prompt probable cause determinations
18 as that term is defined by federal law.

19 G. Safety Cells

20 The court will retain jurisdiction to finally adjudicate the
21 safety cell issue. The safety cell issue is stayed pending a
22 final decision of the Ninth Circuit Court of Appeals in the case
23 of Anderson v. County of Kern. The staying of this issue will
24 not preclude entry of a final judgment. If necessary by reversal
25 of Anderson v. County of Kern, the case may be reopened to deal
26 with the safety cell issue.

27 V. ATTORNEYS' FEES AND COSTS
28

1 Attorneys for the inmates shall receive attorneys' fees for
2 their work through the time of entry of final judgment. Total
3 attorneys' fees and costs are agreed to be \$47,576.00.

4 VI. ABANDONED CLAIMS

5 Any claim that the inmates have made in this litigation that
6 is not expressly referenced in this Judgment have been abandoned.

7 VII. REMEDIES

8 A. Judicial Remedies

9 A violation of the substantive terms of this Judgment shall
10 not be initially remediable by a contempt action. Any party who
11 wishes judicial enforcement of the terms of this Judgment shall
12 seek an order of the court enforcing the particular terms(s) at
13 issue. Violation of the enforcement order may be remedied by
14 contempt. All appropriate remedies other than contempt may
15 accompany an enforcement order. The parties shall not seek to
16 enforce the terms of this Judgment without first having attempted
17 to exhaust the administrative remedies below.

18 B. Administrative Remedies

19 Attachment 3 contains the procedures for inmate grievances
20 set forth in the Sheriff's custody policy regarding Inmate
21 Grievances. Those procedures shall govern the processing of all
22 administrative grievances except where supplemented herein.
23 Except in bona fide emergency situations, whenever any inmate has
24 information that he or she believes to disclose a violation of
25 this Judgment, he or she may set forth that information (a
26 grievance) in writing to the Commander of the involved jail
27 facility, who shall cause an investigation thereof to be made as
28

1 soon as reasonably practicable, but in any event within five (5)
2 days following the receipt of such written statement. Grievance
3 forms shall be available to the inmates at all times upon
4 request, and shall be of a type that permits the inmate to retain
5 a copy of the grievance submitted. In the alternative, the
6 administrative process may be initiated by an attorney for the
7 inmate. No judicial remedy may be sought until the expiration of
8 twenty (20) days from the filing of the grievance with a facility
9 employee, unless the inmate has received a final administrative
10 decision prior to the expiration of twenty days.

11 In an emergency situation, in which resort to the
12 administrative system would likely result in serious bodily harm
13 to the inmate, the inmate must make his complaint known to a
14 facility employee, in writing, if possible, before resorting to
15 any judicial remedy.

16
17 VIII. RETENTION OF JURISDICTION

18 This Court will retain jurisdiction to enforce the terms of
19 the Judgment, including any action brought pursuant to Section
20 VII, above.

21
22 IX. POSTING

23 This Judgment with its attachments shall be posted in each
24 of the jail facilities encompassed by the Judgment. The posting
25 shall include the names, addresses and phone numbers of the
26 attorneys representing the plaintiff class.

1 X. FINAL COURT APPROVAL

2 Because the action herein is a class action, the trial court
3 must finally approve the settlement after a reasonable time has
4 elapsed for class comment or objection. The procedure to be
5 followed in giving the class notice of the proposed
6 settlement as well as those procedures to be followed in
7 securing court approval of this settlement shall be issued in a
8 subsequent order.

9 THE FOREGOING IS AGREED TO AND APPROVED BY COUNSEL FOR ALL
10 PARTIES

11
12 

13 Paul W. Comiskey, Paul T.
14 Persons, Richard P. Herman
15 and Dan Stormer
By: Paul T. Persons

16
17 

18 Lyle Rose; County Counsel
19 By: Gerald O. Carden, Senior
20 Deputy County Counsel

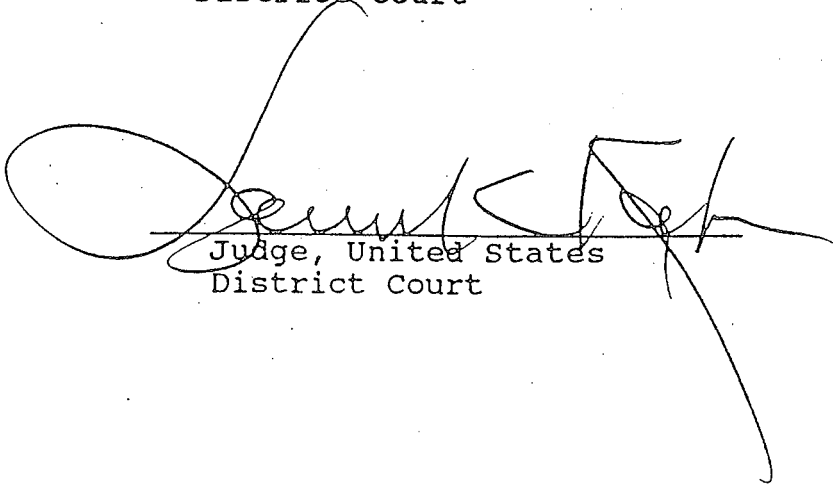
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22 I RECOMMENDED THIS ORDER

23 Dated: _____

24 _____
25 Peter A. Nowinski,
26 Magistrate, United States
27 District Court

28 IT IS SO ORDERED

Dated: 4/8/93



Judge, United States
District Court

ATTACHMENT 1

PLACER COUNTY JAIL FACILITIES
STATE BOARD OF CORRECTIONS RATED CAPACITY

Main Jail

<u>Housing Unit</u>	<u>Sex</u>	<u>Rated Beds</u>
A	Male	4
B	Male	4
C	Male	4
D	Male	16
E	Male	16
F	Female	16
G	Female	24
H	Male	92
I	Male	44
J	Male	32
K	Male	<u>92</u>
		344

Minimum Security

<u>Housing Unit</u>	<u>Sex</u>	<u>Rated Beds</u>
302A	Male	62
303A	Male	62
303B	Female	<u>32</u>
		156

Whitmore Honor Work Camp

<u>Sex</u>	<u>Rated Beds</u>
Male	86

Tahoe City Jail

<u>Rated Beds</u>
5

ATTACHMENT 2

LAW LIBRARY

- 1
2 Wests Annotated California Codes (complete set)
3
4 Witkin, Criminal Law and Procedure
5
6 Witkin, California Evidence
7
8 California Criminal Forms & Instructions, Bankroft-Whitney
9
10 CALJIC
11
12 Wests United States Code Annotated
13 Constitution
14 Title 28, sections 2241 to End
15 Title 42, sections 1891 - 2010
16
17 West Federal Rules of Civil Procedure (paperback)
18
19 West California Rules of Court (paperback)
20
21 West Federal Criminal and Sentencing Rules (paperback)
22
23 CEB Criminal Procedure
24
25 CEB Appeals and Writs in Criminal Cases
26
27 Legal Research in a Nutshell, West Publishing
28
29 Criminal Procedure in a Nutshell, West Publishing
30
31 Blacks Law Dictionary
32
33 Sokol, Federal Habeas Corpus
34
35 West California Reporter (all volumes)
36
37 West Federal Second Reporter (Vol. 500 -)
38
39 Shephard's California Citations
40
41 West Supreme Court Reporter (1980-)
42
43 Decisions of United States Supreme Court (Summaries 1962-)
44
45 Prisoners Union - Pre-Trial Legal Materials
46
47 Prisoners Union - Post Conviction Legal Materials
48
49 Prisoners Union - Jail/Prison Conditions Legal Materials
50
51 Title 15, California Code of Regulations, BOC
52

INMATE GRIEVANCES

I. All inmates shall have the right to appeal and have resolved grievances related to any condition of their confinement.

Exceptions:

- A. Legal decisions as directed by the court
- B. Inmate disciplinary action, as a specific hearing procedure is provided.

II. When an inmate has a grievance, a duty officer will provide a grievance form to him/her.

III. There are four levels at which an inmate grievance may be resolved. Every attempt will be made to resolve the grievance at the lowest possible level.

A. Level 1 - Floor Officer

The grievance will be discussed with the inmate to assess the problem and determine a possible solution/resolution.

- 1. If a grievance can be resolved at this level, the floor officer shall complete the Level 1 section of the grievance form with his name, the date, and a description of the method of resolution.
- 2. If the grievance cannot be resolved, the floor officer shall complete the Level 1 section of the grievance form with his name, the date, and "No Resolution/Referred Level 2".

B. Level 2 - Shift Supervisor

If the grievance cannot be resolved by a floor officer (Level 1), the shift supervisor will review the grievance.

- 1. If a grievance can be resolved at this level, the shift supervisor shall complete the Level 2 section of the grievance form with his name, the date, and a description of the method of resolution.
- 2. If the grievance cannot be resolved, the shift su-

Supervisor shall complete the Level 2 section of the grievance form with his name, the date, and "No Resolution/Referred to Level 3".

C. Level 3 - Jail Supervisor

If the grievance cannot be resolved by the shift supervisor (Level 2), the Jail Supervisor will review the grievance.

1. If a grievance can be resolved at this level, the Jail Supervisor shall complete the Level 3 section of the grievance form with his name, the date, and a description of the method of resolution.
2. If the grievance cannot be resolved, the Jail Supervisor shall complete the Level 3 section of the grievance form with his name, the date, and "No Resolution/Referred to Level 4".

D. Level 4 - Corrections Commander

1. If the grievance cannot be resolved by the Jail Supervisor (Level 3), the Corrections Commander will review the inmate's grievance and make the final resolution.
2. The Level 4 section of the grievance form shall be completed by the Corrections Commander with his name, the date, and a description of the method of resolution.

IV. Special Information

A. Medical

1. All grievances regarding medical treatment will be referred to the jail nurse through Level 1 (floor officer) personnel, with the notation by the Level 1 officer, "Medical Treatment Grievance/Referred to Medical Staff".
2. The jail medical staff will respond to the grievance in the Level 2 section of the form.

B. Food

1. All grievances regarding food will be referred to the Central Kitchen through Level 1 (floor officer) personnel, with the notation by the Level 1 officer, "Food Grievance/Referred to Central Kitchen".
2. The director of the Central Kitchen will respond to the grievance in the Level 2 section of the form.

V. Time limits

Each level must respond in writing to an inmate's grievance within the following time limits:

- A. Level 1 - 24 hours (Except Medical, which is daily)
- B. Level 2 - 3 days (excluding weekends and holidays)
- C. Level 3 - 7 days (excluding weekends and holidays)
- D. Level 4 - 10 days (excluding weekends and holidays)

VI. Right to Appeal

If an inmate is dissatisfied with the resolution of his/her grievance, an appeal may be made to the next highest Level by filing another Inmate Grievance form. This form shall be directed to the appropriate Level and will be accompanied by any other Inmate Grievance form(s) pertaining to the specific grievance.

VII. Writs

Nothing in this procedure will restrict an inmate's legal right to file a writ with the court or seek any other form of legal relief.

VII. Completed Inmate Grievance forms

- A. A photocopy of the completed Inmate Grievance form will be returned to the inmate.
- B. The original copy of the Inmate Grievance form shall be filed in the inmate's arrest file as a part of the permanent record.

- C. A photocopy of the Inmate Grievance form shall also be filed in the Jail Administrator's master file.