



Jl-ID-003-002

IN THE UNITED STATES DISTRICT COURT

U.S. DISTRICT COURT

FOR THE DISTRICT OF IDAHO

1987 MAY 11 PM 3:00

M.M.B., a minor, by and through)
his mother and next friend, E.E.;)
et al.,)

Plaintiffs,)

vs.)

BONNEVILLE COUNTY, IDAHO, et al.,)

Defendants.)

DISTRICT OF IDAHO
JERRY L. CLAPP, CLERK

Case No. 86-4244

AMENDED CONSENT JUDGMENT

This is a civil rights class action involving the conditions of confinement and policies and practices of defendants regarding juveniles at the Bonneville County Jail in Idaho Falls, Idaho. Plaintiffs bring this action for declaratory, injunctive, and other equitable relief on behalf of themselves and all other juveniles similarly situated who are, have been, or will be confined in the Bonneville County Jail, and thereby allegedly subjected by defendants to illegal conditions of confinement in the jail; illegal incarceration in the jail without adequate separation from confined adult offenders; unlawful secure detention in said jail of juveniles who are charged with or who have committed offenses which would not be criminal if committed by adults ("status offenses"); and denial of adequate and appropriate community placements as alternatives to the jail.

The Consent Judgment is being filed simultaneously with the Complaint in this action.

The defendants are BONNEVILLE COUNTY, IDAHO, a local

government unit in the State of Idaho; CLYDE BURTENSCHAW, WYLIE SNARR and CLIFFORD LONG, members of the Bonneville County Commission; RICHARD (DICK) J. ACKERMAN, Sheriff of Bonneville county, Idaho; and WILLIAM B. ENGLISH, Administrator of the Bonneville County Jail.

The defendants do not admit to the allegations in the Complaint filed herewith but are desirous of an early settlement of this matter without becoming involved in lengthy litigation and hereby consent to this Court's entry of this judgment.

Therefore, IT IS ORDERED ADJUDGED AND DECREED that:

1. This Court has jurisdiction over this matter.
2. The named plaintiffs in this action are M.M.B., a minor, suing by and through his mother and next friend, E.E.; P.J.W., a minor, suing by and through her father and next friend; and F.C.M., a minor, suing by and through his mother and next friend, G.M.
3. The defendants in this action who agree and stipulate to be bound by this Consent Judgment are:
 - a. BONNEVILLE COUNTY, IDAHO;
 - b. CLYDE BURTENSCHAW, WYLIE SNARR and CLIFFORD LONG, members of the Bonneville County Commission;
 - c. RICHARD (DICK) J. ACKERMAN, Sheriff of Bonneville County, Idaho;
 - d. WILLIAM E. ENGLISH, Administrator of the Bonneville County, Jail. All said defendants are named in their official capacities.

4. This action is properly maintained as a class action under Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure.

5. The plaintiff class consists of:

All juveniles who have been, are now or in the future will be confined at the Bonneville County Jail in Idaho Falls, Idaho.

6. The members of the class are so numerous that joinder of all members is impracticable. There are questions of law and fact common to the members of the plaintiff class regarding practices of the defendants, and the claims of the named plaintiffs are typical of the claims of the members of the plaintiff class. The named plaintiffs and their counsel will fairly and adequately protect the interests of the members of the class. By their policies, the defendants have acted and continue to act on the grounds and in a manner generally applicable to the class, thereby making final injunctive relief or corresponding declaratory relief appropriate with respect to the class as a whole.

7. The Consent Judgment has permanent, perpetual and binding effect upon defendants, their officers, successors in office, employees, agents and assigns and the directives contained herein and the relief granted is and shall be fully enforceable as between the parties hereto and all juveniles who may hereafter be subject to incarceration in the Bonneville County Jail.

8. Under the terms of this judgment, defendants are prohibited from authorizing the incarceration of any juvenile in the Bonneville County Jail or in any other adult jail or lock-up, except as authorized in paragraph nine. Defendants are prohibited from entering into any contract or agreement with any governmental unit or agency having jurisdiction outside Bonneville County under which contract agreement adult jails or other lock-up facilities in such jurisdictions are used to detain or incarcerate members of the plaintiff class. Provided, however, pursuant to stipulation of all the parties hereto, the defendants may contract with Fremont County (Idaho) officials for the detention and incarceration of members of the plaintiffs' class in a facility formerly known as the Fremont County Adult Jail which has been converted, on a temporary basis, to a juvenile detention facility. Said use of the Fremont facility by defendants shall be for no longer than necessary to complete plans for "managing a juvenile justice system" in Bonneville County (Consent Judgment, para. 12, p. 5), but in no event any longer than six months from the date of the stipulation of parties filed herein. During all time that members of the plaintiffs' class are incarcerated or detained in the said Fremont County facility, defendants will assure that certain minimum standards as set forth in the Stipulation shall be met.

9. Nothing in this judgment prohibits defendants from authorizing the use of the Bonneville County Jail or contracting with other governmental units or agencies outside of Bonneville

County for the detention or incarceration in adult jail or other adult lock-up facilities of juveniles who have been waived to adult status or those who are initially charged as adults pursuant to Idaho Code, Section 16-1806 and 16-1806A, as those statutes no exist or may be subsequently amended or codified.

10. The plaintiffs in this action agree and stipulate that the defendants shall not be in violation of this agreement for an isolated incident wherein a juvenile is incarcerated in the Bonneville County Jail for a minimal amount of time upon the arresting officer's good faith objective belief that the juvenile was an adult.

11. Defendants agree that a nationally recognized expert, Michael McMillian, OJJDP, be consulted concerning a viable plan for managing a juvenile justice system.

12. Plaintiffs' counsel shall have access, upon reasonable notice, to the Bonneville County Jail to examine records with respect to the detention of juveniles and to tour the facility and interview inmates therein to ensure compliance with this Consent Judgment for a period of one year from the date of the entry of this Judgment. For so long as members of the plaintiffs' class are incarcerated or detained in the Fremont County facility, plaintiffs' counsel shall have access to the facility to interview such class members and to review their records.

13. Within thirty days from the date of this entry, plaintiffs' counsel will submit to the defendants a claim for

reasonable attorneys' fees and costs as authorized under 42 U.S.C. §1988. Defendants agree to pay plaintiffs their reasonable attorneys' fees and costs, not to exceed \$10,000.00.

14. The agreement set forth in this Consent Judgment constitutes a fair and reasonable resolution of plaintiffs' claims against defendants and is therefore approved by this Court.

15. The Defendants are not precluded from challenging any of the conditions or restrictions in this consent judgment which may be modified by subsequent law.

DATED this ____ day of _____, 1987.

United States District Court

APPROVED FOR ENTRY AND CONSENTED TO BY:

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