

Special Supplement

ANNOTATED BIBLIOGRAPHY ON PRISON REFORM

For the lawyer or law student who needs to draft a complaint in a hurry to redress an unconstitutional act by a government official, corporation, or private individual, the Meiklejohn Civil Liberties Library in Berkeley can provide copies of complaints in similar cases that have withstood demurrers or motions to dismiss. The Library is a unique collection of specialized legal and other materials relating to civil liberties, civil rights, due process of law, and the law of the poor. In addition to complaints, the Library collects briefs, memos, transcripts of hearings and trials, unreported court opinions, pamphlets by defense committees in public law cases, and other materials that arise out of such cases.

This special issue on prison conditions listing legal materials from old and new Meiklejohn Library files is being presented by the BLACK LAW JOURNAL as a special service to our subscribers and supporters, to lawyers and prisoners, and to all those who are interested in the area of prison reform or prisoners' rights litigation.

I. FREEDOM OF EXPRESSION AND ASSOCIATION (10-295)

FREEDOM OF RELIGION

150. Miscellaneous Restrictions

151. In Prisons

151.6 *Cooper v Pate* (US Supreme Ct, 378 US 546) PETITION FOR WRIT OF CERTIORARI (1964) (17 pp): argues that cert should be granted because 1) refusal of ct below to have hearing on merits where state prisoner, complaining under Civil Rights Act, 42 USC §1983, alleges specific, significant instances of religious discrimination by prison authorities conflicts with decisions in other circuits; 2) decision below is erroneous as permitting an establishment of religion and an unwarranted interference with free exercise of religion by Black Muslims in violation of 1st Amdt, and as sanctioning a violation of equal protection clause of 14th Amdt: 3) failure of ct below to the record or by any facts properly the subject of judicial notice, contrary to due process clause of 14th Amdt: 3) failure of ct below to appoint counsel was abuse of discretion calling for exercise of Sup Ct's supervisory power; 4) dangerous nature of precedent set by decision below, and number of cases and people affected by it, require ct to grant cert.

Atty: ACLU, Illinois Division, 6 S Clark St, Chicago 60603.

II. DUE PROCESS (300-499)

350. DUE PROCESS

354. In Press Releases and Newspaper Coverage

354.24 *California v Jackson* — The Soledad 3 Case. (Background material. BOOK: George Jackson, "Soledad Brother: Prison Letters" Coward-McCann \$5.95; Bantam \$1.50). TREATMENT OF PRISONERS on O and X wings, Correctional Facility, Soledad (23 pp): letters from black and white inmates to atty Fay Stender written Sept 8—Oct 23, 1970. REPORT OF BLACK CAUCUS OF CALIF LEGISLATURE (July 1970) (26 pp): Treatment of Prisoners at California Training Facility at Soledad Central by Sen. Mervyn M. Dymally, Assemblyman John J Miller. SOLEDAD BROTHERS DEFENSE COMMITTEE. "Soledad Brothers" (1970) (4 pp): An explanation of the facts in *California v Jackson* and short biographies of the Defs. P O Box 31306, San Francisco 94131. "SOLEDAD BROTHERS NEWSLETTER": contains both legal summaries and background material about the Soledad Brothers case and California prisons in general. Monthly. No price statement. "SAN FRANCISCO WILDCAT." California prison conditions newsletter. No stated frequency. 491 Guerrero, San Francisco 94110. \$3/yr. Free to prisoners.

370. RIGHT TO COUNSEL/ACCESS TO COURTS

372. In State Cases

372.102 *In re Alvarez* (Calif Sup Ct) Cr #15451) AMICUS BRIEF (Apr 19, 1971) (20 pp): seeks reversal of action by Adult Authority rescinding order setting Def's sentence and ordering his parole release on basis of political literature found in his cell during routine search. Pet argues: 1) continued incarceration on basis of discovered literature violated 1st Amdt and Pen C §2600, (see *In re Harrell*, 2 C3d 674 A1970qq.); 2) prohibition of counsel at Adult Authority hearing violated 5th Amdt guarantee of due process.

Attys: Paul N Halvonik, Charles C Marson, ACLU-NCalif, 593 Market St, Suite 250, San Francisco 94105.

400. EXCESSIVE BAIL; PAROLE CONDITIONS

401. Amount of Bail Set

401.29 *Brenneman v Madigon* (US Dist Ct, ND Calif, C-70 1911.. COMPLAINT FOR DECLARATORY JUDGMENT, INJUNCTIVE RELIEF AND OTHER APPROPRIATE RELIEF (Sept 2, 1970) (23 pp, affidavits of Pls—37 pp): Pls, prisoners at the Greystone facility in Santa Rita Rehabilitation Center (Alameda Co Jail) awaiting trial but unable to raise bail, seek: 1) declaration that their treatment is unconstitutional as punitive treatment; 2) injunction against continuation of the treatment. Allegations include: incarceration with convicted prisoners being punished as disciplinary problems; unsanitary and inadequate cells; no recreation; inadequate communication facilities, reading material, and showers; no educational or vocational programs; unsanitary food; inadequate clothing; lack of medical facilities and treatment; limitations on visitors; censorship of mail; overcrowding; harassment by prison personnel under color of law; inferior treatment of sentenced prisoners elsewhere at Santa Rita; denial of right to bail and communication with counsel. MEMO IN SUPPORT (Sept 8, 1970) (12 pp): argues: 1) Pls and their class subjected to punishment without due process of law; 2) Pls denied equal protection of the laws under 14th Amdt; 3) Pls subjected to cruel and unusual punishment; ask Defs be enjoined from harassing Pls for prosecuting this suit. AFFIDAVITS (10 pp): individual complaints of harassment and allegations of need for protective injunction.

PLAINTIFFS' MEMO IN OPPOSITION TO MOTION TO DISMISS (Oct 10, 1970) (22 pp): argues: 1) Pls needn't exhaust state judicial or administrative remedies before seeking

redress in fed'l ct under 42 USC §1983; 2) public officials may be sued in their official capacity for declaratory and injunctive relief under that section; 3) suit is proper class action under Rule 23; 4) motion to dismiss for failure to state a claim inappropriate; 5) conditions and treatment at institution are unconstitutional as they constitute cruel and unusual punishment without due process, deprive Pls of equal protection and 1st Amdt rights, interfere with Pls' right to bail and fair trial in violation of 8th, 6th and 14 Amdts. MOTION FOR PRELIMINARY INJUNCTION AND PARTIAL SUMMARY JUDGMENT (Jan 18, 1971) (11 pp): argued: 1) Defs' admission regarding censorship and limitations on mail, and on court-ordered phone calls entitles Pls to summary judgment; 2) Pls entitled to preliminary injunction against practices that constitute cruel and unusual punishment. AFFIDAVITS (110 pp). REPORTER'S TRANSCRIPT (9 pp). 1970 GRAND JURY RECOMMENDATIONS, Exhibit 1-8 (29 pp).

Attys: Richard P Berg, Richard P Duane, Roger F Cox, Clifford C Sweet, Legal Aid Society of Alameda County, 1330 Chestnut St, Oakland, Calif 94607.

And see *Boyle v Madigon* at 411.55.

410. CRUEL & UNUSUAL PUNISHMENT

411. In Criminal Cases

411.47 *Inmates of Cook County Jail v Tierney* (US Dist Ct, ND Ill, E Div, #68 C 504) REPORT OF COOK COUNTY GRAND JURY (December 1967) (50 pp): Findings of fact re jail conditions. MEMO IN OPPOSITION TO MOTION TO DISMISS (1968) (14 pp): Describes jail conditions in support of claim of cruel and unusual punishment. AMENDED COMPLAINT FOR DECLARATORY JUDGMENT AND EQUITABLE RELIEF (1968) (26 pp), MEMO (14 pp): argues that prisoners are overcrowded, brutally treated, inadequately supervised, fed, sheltered; seeks declaratory judgment and equitable relief. HEARING TRANSCRIPT (1968) (28 pp): Ct (Julius Hoffman, J) denied Def's motion to dismiss; held class action, venue, cause of action proper. Action dismissed by agreement after new warden undertook substantial changes and voters approved \$9 million bond issue for jail facilities.

Attys: Stanley A Bass, 11 S LaSalle St; Charles Pressman, 134 N LaSalle St; Edward G Thompson, Community Legal Counsel, 116 S Michigan Ave; David Long, ACLU, Ill Div, 6 S Clark St; all of Chicago 60603.

411.49 *Warren Wells v Madigan* (Alameda Co Super Ct, #42287) MEMO OF DECISION (1969) (3 pp): describes County Jail condi-

tions, ruled standards must meet *Jordan v Fitzharris*, 257 F.Supp 674; granted injunction, ordered wash basins, drinking taps, toilets must be installed, towel or wash cloth provided, clothing must be permitted unless reasonable danger it would be used for self-harm; denied habeas.

Atty: Charles R Garry, 341 Market St, San Francisco 94105.

411.50b *Boutte v Sarver* (US Dist Ct, ED Ark, Pine Bluff Div, #PB-69-C-24) CONSOLIDATED, AMENDED AND SUBSTITUTED COMPLAINT (6 pp): suit under 42 USC §1983 to enjoin enforcement and declare unconstitutional Ark statute 46-804 giving Defs care and custody of women over 18 convicted of certain misdemeanor offenses; alleges failure of Defs to fulfill obligation to provide affirmative program, personnel, medical care, etc., to women prisoners, resulting in deprivation of 14th Amdt rights.

Attys: Jack Holt, Jr, 602 Union Life Bldg, Little Rock, Ark 72201; Philip E Kaplan, 1820 W 13th St, Little Rock, Ark 72202.

411.50c *Holt v Sarver* (US Dist Ct, ED Ark, Pine Bluff Div, PB-69-C-24) MEMO OPINION (Feb 18, 1970) (43 pp): in 8 class suits by mail inmates of Cummins Farm Unit and Tucker Intermediate Reformatory of Ark State Penitentiary System, the court was especially critical of trustee guard system, open barracks, inmate safety, lack of rehabilitative program, inadequate medical services, etc, which, taken as a whole, result in prison system which itself constitutes cruel and unusual punishment; sets down guidelines for reform and calls for Defs to present plan. DECREE (2 pp): adjudged 1) prison farm unit cruel and unusual punishment in violation of 8th Amdt; 2) racial segregation of inmates violates equal protection; 3) rejected Pet's claim that uncompensated forced labor constituted involuntary servitude; 4) ordered Defs report with plan to eliminate unconstitutional practices.

411.51 *Lane v Carberry* (Calif Sup Ct) PETITION FOR WRIT OF MANDATE (1969) (31 pp): Pet, while incarcerated in San Francisco city prison, observed Negro man placed in cell next to his. Following morning, Pet and other observed that man had no blankets, took no breakfast, did not answer calls. After breakfast Pet noticed man in pool of blood from severe cut in neck, chest. Pet and others allegedly informed officers in charge repeatedly to no avail. Police told Pet about 11 am if Pet got man's name he could be sent to hospital; Pet complied. After lunch, injured man taken to San Francisco Gen'l Hospital. Feb: Pet and others similarly situated filed petition in Calif Sup Ct for alternative, peremptory writ of

mandate to compel appointment of at least 1 physician to be available at all times at city jail, 1 to be available at all times at Co jail, that salaries be set and paid by City and Co. POINTS AND AUTHORITIES (1969) (17 pp): 1) Sup Ct has original jurisdiction where time is of essence, questions of great public importance raised, 2) Calif Pen C §4023 requires at least 1 licensed physician in attendance at all times at each city or Co jail with an average inmate population of 100 persons per day, 3) duty imposed by statute is for benefit of general public, which includes Pet, currently incarcerated, 4) if benefit is not for general public, it is at least for currently incarcerated prisoners, 5) mandamus will lie to compel performance of §4023, 6) Pet and others similarly situated, have made full demand on public officials, who have refused to perform duties under §4023.

Atty: Richard M. Sims, 532 Natoma St, San Francisco 94103.

411.52 *Sostre v Rockefeller* (SD NY, #4058) PLAINTIFF'S POST-TRIAL MEMO (1970) (55 pp): Re Green Haven and Attica, New York prisons, Pl Black Panther alleges: 1) Pl's punishment and its length disproportionate to alleged crime, constituting cruel, unusual punishment; 2) Pl received no notice of charges, counsel, right to call witnesses, right to confrontation or cross-examination, written record, right to appeal; 3) unlawful censorship, interference with Pl's correspondence with cts; 4) racially segregated prison facilities.

411.52 *Sostre v McGinnis* (US Ct of App, 2d Cir, #35038) BRIEF OF PLAINTIFF-APPELLEE (Sept 15, 1970) (79 pp, App 3 pp): Dist Ct granted black militant inmate injunctive relief and compensatory damages for confinement in segregated facilities on vague, unsubstantiated charges. Def appealed and Pl argues: 1) due process requires hearing prior to solitary confinement or deprivation of good time credit; 2) ease of prison administration cannot justify deprivation of due process; 3) excessive length of solitary confinement subjected Pl to cruel and unusual punishment; 4) abridgment of Pl's right to communicate with attorneys or public officials, and Def's unlawful censorship and interference with Pl's mail violated his 1st, 6th and 14th Amdt rights; 5) Dist Ct order that Def submit rules governing prison disciplinary proceedings and possession of political literature so as not to violate inmates' 1st Amdt rights was proper; 6) award of \$13,020 in compensatory and punitive damages was proper. POST-ARGUMENT BRIEF OF PLAINTIFF-APPELLEE (Oct 27, 1970) (24 pp): argues: 1) doctrine of abstention does not apply; 2) no necessity for exhaustion of state remedies; 3) state remedies at law insufficient.

Atty: Victor Rabinowitz, Kristin Booth Glen, 30 E 42nd St, NYC 10017.

411.55 *Boyle v Madigan* (US Dist Ct, ND Calif) COMPLAINT (1970) (31 pp): Pls, former prisoners at Santa Rita Rehabilitation Center (Alameda Co Jail) and a medical rights association, allege essential medical treatment is systematically denied prisoners in Santa Rita subjecting them to cruel and unusual punishment, summary punishment, and depriving them of their rights to privacy, to petition the courts for redress of grievances, and access to counsel, under 42 USC §1983, 1985, citing instances involving 17 prisoners—3 of whom died; and ask for a declaratory judgment and injunction insuring adequate medical care and damages.

Attys: Richard P Duane, Richard Berg, Roger F Cox, Clifford C Sweet, Legal Aid Society of Alameda Co, 1330 Chestnut St, Oakland, Calif 94607; David Nawi, Treuhaft, Walker & Burnstein, 1440 Broadway, Suite 912, Oakland, Calif 94612.

411.55a *Murray v Madigan* (US Dist Ct, ND Calif) COMPLAINT FOR DECLARATORY JUDGMENT, INJUNCTIVE RELIEF (1971) (22 pp): class action on behalf of all Santa Rita Rehabilitation Center inmates similarly situated: Pls allege administrative punishment without minimal safeguards of due process: 1) unjust confinement in the "hole"; 2) no notice of charge against inmate; 3) no opportunity to cross-examine witnesses; 4) no benefit of counsel; 5) no adequate record of evidence against inmate; 6) no information on reason for punishment; 7) prison time extended and ordered spent in maximum security section; 8) deplorable conditions in maximum security section including 7'x7' cells with leaky plumbing, poor ventilation, no windows to outside, no exercise, unsanitary eating conditions, dirty clothing and linen, denial of medical and psychiatric aid, no access to religious services. Pls seek declaratory and injunctive relief to bar confinement in hole and to rectify conditions in maximum security section and hole.

Attys: Richard P Berg, Roger F Cox, Mervin N Cherrin, Clifford C Sweet, Thomas L Fike, Legal Aid Society, 1330 Chestnut St, Oakland 94607.

411.56 *Curley v Gonzales* (US Dist Ct, D N Mex, #8372) PROCEEDINGS (Feb-July,

1970) (3 pp): Pls, Navajo Indians filed suit under 42 USC §1983 charging overcrowded conditions in Gallup City Jail resulted in cruel and unusual punishment; Ct granted preliminary injunction against continued overcrowding, ordered 83 prisoners released of those who had served longest.

411.56a *US ex rel Curley v Gonzales* (US Dist Ct, D N Mex, #8373) PROCEEDINGS (Feb-April, 1970) (22 pp): application for writ of habeas corpus for release of Navajo Indians held in Gallup City Jail denied.

Attys: Joan M Friedland, Kathy B Bonham, Donald Juneau, Dinebeiiino Nahiilna Be Agaditahe, PO Box 460, Window Rock, Ariz 86515; Robert C Hanna, PO Box 1126, Albuquerque, N Mex 87103.

411.57 *Wayne County Jail Inmates v Wayne County Bd of Supervisors* (Wayne Co Cir Ct, Civ #173,217) COMPLAINT (Feb 1971) (33 pp): Class action for declaratory and injunctive relief by 6 Pls for all inmates similarly situated alleging: 1) overcrowded and nonhygienic cell conditions; 2) severity of jail conditions forces substantial number of persons to plead guilty, thereby depriving class members of fair trial; 3) 2/3 of inmates incarcerated for lack of bail, thereby subjecting class that should be presumed innocent to deplorable prison conditions; 4) lack of access to legal materials, legal counsel, and defense witnesses; 5) intentionally inflicted emotional harm on Pls and members of their class; 6) no effective administrative remedies available to inmates, nor any effective remedies at law to redress prison conditions.

Attys: Justin C Ravitz, Kenneth V Cockrel, 2761 E Jefferson, Detroit 48207; Alan W Houseman, Michigan Legal Services Assistance Program, 308 Professional Bldg, 10 Peterboro, Detroit 48201; Neal Bush, Wayne County Neighborhood Legal Services, 3546 Trumbull, Detroit 48208; William H Goodman, 3200 Cadillac Tower, Detroit 48226; of counsel: Mark Stickgold, Dennis James, 726 Pallister, Detroit 48202; David Cooper, U of Detroit Urban Law Center, 651 E Jefferson, Detroit 48226; Neil H Fink, 2066 Penobscot Bldg, Detroit 48226; David Chambers, U of Michigan Law School, Ann Arbor 48104; Stanley A Bass, NAACP Legal Defense Fund, 10 Columbus Circle, NYC 10027.

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