

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

DAVID LEE RODGERS,

Plaintiff,

vs.

HOWARD BUSCH, individually and  
as an employee of the Gloucester  
County Sheriff's Department

and

THEODORE DAMASK, individually and  
as Warden of the Gloucester County  
Jail,

and

GEORGE SMALL, individually and as  
Sheriff of Gloucester County,

and

ANGELO ROMEO, individually, and as  
a Member of the Board of Chosen  
Freeholders of Gloucester County,  
and as the Director of the Department  
of Public Affairs of Gloucester  
County,

and

DONALD WAGNER, individually, and as  
the Director of the Board of Chosen  
Freeholders of Gloucester County, and  
as the Co-Director of the Department  
of Public Affairs of Gloucester County,

Defendants.

CIVIL ACTION NO. 77-0902

CONSENT ORDER

IT IS HEREBY AGREED by and between the parties through their respective  
attorneys that this matter be settled as follows:

1. Defendants will pay Plaintiff David Lee Rodgers, eight hundred  
dollars (\$800.00) in damages in settlement of all claims arising out of the  
incidents of February 4, 1976 as alleged in his Complaint.

2. Defendants agree that no inmate will be:

- a. deprived of water at any time.
- b. deprived of three (3) standard and nutritionally adequate  
meals each day.
- c. placed in any Detention Cell #1.
- d. administered or threatened with corporal punishment of  
any type by any member of the staff,

3. Defendants agree that no inmate will be disciplined for an infraction of the Rules unless the following procedures are complied with:

a.) It is required that the inmate be given a hearing in any case where the possible punishment is lockup.

b.) It is also required that the inmate be given notice of charges against him within a reasonable time after the alleged offense or incident. This notice must include time, date and place of violation, the rules allegedly violated, the name of the person asserting the violation, the names of all known witnesses and written summary of the incident.

c.) The inmate may summarily be locked up prior to a hearing only if a dangerous condition exists in the opinion of the Warden or his designated officer, which requires such lockup. A dangerous condition shall include:

- 1) Where the inmate is engaged in an actual fight with another detainee, member of the jail staff or visitor;
- 2) Where the inmate threatens to inflict serious bodily harm upon someone under conditions where the threat is likely to be performed.
- 3) Where the inmate attempts or is actually engaged in unusual sexual conduct or act with another person.
- 4) Where the inmate is actively involved in the destruction of property or is actively engaged in causing a disturbance.
- 5) Where by reason of the medical or mental condition of the detained a dangerous condition exists with respect to other inmates or persons.
- 6) Where the inmate does not object to such summary lockup for his own protection.

d.) Hearings must conform to the requirements of speedy trial as far as practicable. The inmate must be given a sufficient amount of time to prepare a defense. The inmate shall have the right to an articulate representative to prepare for and attend the hearing.

e.) The hearing must be before an impartial tribunal, consisting of at least three people, one of whom must be from outside of the prison administration. No guard or any person involved in the incident may sit on the tribunal.

f.) The inmate has the right to be present at the hearing to cross-examine witnesses and present his/her side of the incident by witnesses and by his/her own testimony.

h. If the prison rule violation of which the inmate has been accused could result in imposition of criminal charges, he/she must be provided with a lawyer and informed of his rights to counsel.

i. The inmate may not be denied access to any documents or reports that will be considered at a hearing.

j. The inmate has the right, upon request, to a written summary of the hearing, including all decisions and all evidence relied upon.

k. The right to appeal to the sheriff is guaranteed. No review may unilaterally increase sentence or reverse a finding of innocence.

4. Defendants agree that no inmate will be disciplined unless the above procedures are complied with and only upon a finding that he/she violated one of the following rules:

An inmate may not:

- a. Assault or fight with any person.
- b. Threaten anyone with harm to his/her person or property.
- c. Extort, blackmail, demand money or property for any reason.
- d. Escape or attempt to escape.
- e. Set fire to anything.
- f. Destroy or damage property belonging to the County or any person.
- j. Possess any type of weapon, narcotic or other unauthorized item.
- h. Refuse to obey an order of any staff member.
- i. Interfer with the rights or privileges of other inmates.
- j. Act in a manner which seriously disrupts or presents a clear and present danger of seriously disrupting the orderly operation of the institution.

5. Defendants agree that no inmate will be disciplined except in accordance with the following:

a. Each punishment must have a definite maximum time. If cell lockup is the punishment, it shall be limited to a maximum of ten (10) days for each violation.

b. Any loss of privileges shall be limited to a maximum of seven (7) days for each violation.

c. Lockup and loss of privileges may exceed the above maximums, only if the inmate is guilty of repeated violations of the rules.

d. Inmate violating any of the rules and regulations of the Gloucester County Jail can be subject to any or all of the following actions as decided by the Warden or the Disciplinary Committee:

- 1) Warning and reprimand placed on his/her record.
- 2) Loss of privileges.
- 3) Lockup in own cell.
- 4) Loss of good time (where appropriate)

5) Referral to the Prosecutor for presentation in Court, Violations which are ruled as new crimes such as assault and battery on anyone, sexual attacks, escape, destruction of property or other charges can be referred to the local courts depending on the circumstances.

e. There are certain types of punishment that will not be permitted in this institution. Punishment shall not include restrictions on the following:

- 1) Food
- 2) Health or Sanitary Facilities
- 3) Clothing
- 4) Access to Medical Needs
- 5) Reading and Correspondence
- 6) Hygienic Implements
- 7) Telephone and visits with attorneys and legal representatives.

8) Corporal punishment shall not be permitted at anytime in this institution.

6. Defendants agree that each inmate admitted to the Gloucester County Jail will be given his/her own copy of the Rules and Regulations, annexed hereto as Exhibit A.

7. Defendants agree that each Spanish speaking inmate admitted to the Gloucester County Jail will be given his/her own copy of a Spanish translation of Rules and Regulations, which Defendants will publish within ninety (90) days from this Order.

8. Defendants agree to make a Grievance Form available to all inmates to insure that legitimate grievance are fairly resolved as follows:

a. The grievance should be transmitted without alteration, interference, or delay to the person or entity responsible for receiving and investigating grievances. The ombudsman, rehabilitation counselor or penal coordinator shall be charged with this responsibility.

b. To encourage the use of this procedure, it is open to all inmates and no reprisals shall flow from its use. All grievances WITH MERIT, should be investigated. The ombudsman shall report what was found and what is being done, with a copy to the originator of the grievance.

c. A standard form shall be used for reporting all grievances with an endorsement by the investigator.

d. All grievances and all responses shall be kept in a centralized file for a period of two (2) years from the date the Grievance is submitted.

9. Defendants agree to post copies of this Consent Order in conspicuous places in each of the jail's cell blocks for a period of 1 (one) year from the date of this Order.


10. Defendants agree to pay Plaintiff's attorney, Camden Regional Legal Services, Inc., two hundred dollars (\$200.00) Attorney's Fees.


11. Defendants agree to do all acts herein outlined within thirty (30) days of the Order, unless otherwise specified herein.

12. Plaintiff agrees to the dismissal with prejudice of the Complaint in this matter.

Dated: January 18, 1978

Dated: February 20<sup>th</sup> 1978

  
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