

10-15-1970

Defendant Exhibit A for Identification

Lewis M. Steel '63

Dept A latent
10/15/70

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -x

WILLIAM A. MAYNARD, JR.,

Plaintiff,

-against-

70 Civ. 2487

GEORGE F. MC GRATH, in his capacity
as the Commissioner of Correction
of the City of New York and THE
CITY OF NEW YORK,

ORDER TO
SHOW CAUSE

Defendant.

- - - - -x

a copy of

Upon ~~the~~ verified complaint herein, verified on
the ^{4th} day of October, 1970 and the affidavit of DANIEL L.
MEYERS, Esq., sworn to the ^{15th} day of October, 1970, and ~~the~~
~~exhibits annexed thereto~~, it is

ORDERED that the defendants or their attorneys show
cause before me or one of the Judges of this Court, at the
Federal Courthouse, Foley Square, New York, New York, Room 506
on the ^{20th} day of October, 1970 at 10:00 o'clock in the fore-
noon of that day or as soon thereafter as counsel can be heard,
why an order should not be made herein, pursuant to Rule 65 (a)
of the Federal Rules of Civil Procedure granting a preliminary
injunction:

- a. Ordering the defendants to permit the plaintiff to
shower prior to his morning court appearances;
- b. Ordering the defendants to permit the plaintiff to
shave in the morning prior to his court appearances;
- c. Ordering the defendants to provide the plaintiff
with a non-meat lunch substantially complying with the
dietary restrictions of plaintiff while the plaintiff is on
trial in New York State Supreme Court.

IT IS FURTHER ORDERED that personal service of a copy of this order and of the papers upon which the same is granted, on the defendants on or before the day of October, 1970, shall be sufficient service of this order, ~~and in the meantime and until the hearing and determination of this motion and the entry of an order thereon, let the defendants be stayed from denying the plaintiff permission to shower, and shave prior to his morning court appearances and from denying the plaintiff a hot non-meat lunch while the plaintiff is on trial in State Supreme Court, IT IS FURTHER ORDERED THAT SECURITY IN THE SUM OF \$ BE POSTED.~~

/S/ SYLVESTER J. RYAN
U.S.D.J.

Dated; October 14, 1970
New York, New York
ISSUED AT 3:35 P.M.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X

WILLIAM A. MAYNARD, JR.,

Plaintiff,

-against-

SUMMONS

70 Civ. 4484

GEORGE F. McGRATH, in his capacity as
the Commissioner of Correction of the
City of New York,

Defendant.

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TO THE ABOVE NAMED DEFENDANT:

You are hereby required and summoned to serve upon Daniel L. Meyers and
at 350 Broadway NY NY 10013
Lewis M. Steel, plaintiff's attorneys, an answer to the complaint which is
herewith served upon you, within twenty days after service of this summons
upon you, exclusive of the day of service. If you fail to do so, judgment by
default will be taken against you for the relief demanded in the complaint.

/S/ JOHN LIVINGSTON
CLERK OF THE COURT

/S/ B. EDWA
DEPUTY CLERK

Date: October 14, 1970

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - X

WILLIAM A. MAYNARD, JR.,

Plaintiff,

-against-

VERIFIED COMPLAINT

70 Civ. 4484

GEORGE F. MCGATH, in his capacity as
the Commissioner of Correction of the
City of New York,

Defendant.

- - - - - X

I

This is an action for a preliminary and permanent injunction authorized by 42 U.S.C. 1983 to secure rights, privileges and immunities established by the Fourteenth Amendment to the Constitution of the United States. Jurisdiction is conferred on this Court by Title 28, U.S.C. 1343 (3) and (4) providing for original jurisdiction of this Court in suits authorized by Title 42 U.S.C. 1983. Jurisdiction is also conferred on this Court by the Thirteenth Amendment to the United States Constitution.

II

This action seeks an injunction restraining the defendants from continuing to deny to the plaintiff due process of law and equal protection of the law guaranteed by the Fourteenth Amendment to the United States Constitution and from continuing to treat the defendant as a slave in violation of the Thirteenth Amendment to the United States Constitution.

III

The plaintiff is a Black American. He has been incarcerated in the House of Detention for Men, 125 White Street, New York, New York, 10013 (commonly referred to as "The Tombs") for more than three years, unable to make the present bail of \$50,000 prior to trial on a pending charge of murder. In name only, the plaintiff is a citizen of the State of New York and of the United States. However, he remains incarcerated although not convicted of any crime.

IV

The plaintiff is presently on trial for murder in the Supreme Court of the State of New York, County of New York, Part 43, 100 Centre Street, New York, New York, 10013. Mr. Justice Irwin Davidson, a Justice of the Supreme Court of the State of New York is presiding. Since Thursday, October 8, 1970,

counsel have been engaged in the process of picking a jury.

V

From Monday, October 5, 1970, to date, the plaintiff has been attempting to shave and shower before appearing in Court to stand trial for murder. The prison officials in the Tombs have denied the plaintiff these rights on each day. As a result, the plaintiff is forced to stand trial for the crime of murder unshaven and dirty. His physical appearance reflects on his demeanor before the jury, and is therefore, highly prejudicial. This refusal of the prison officials to allow the plaintiff to shower and shave is a) a denial of due process of law, b) a denial of equal protection of laws in that the plaintiff would be able to appear in a presentable fashion before the jury if the plaintiff could afford bail, and c) amounts to a badge of slavery placed upon the plaintiff by the defendant.

VI

The plaintiff is a vegetarian and has been recognized as such by prison officials. Heretofore the prison officials have supplied the plaintiff with a special diet. Since the commencement of the plaintiff's murder trial, however, the plaintiff has never been supplied with an appropriate noon meal, and has not eaten lunch during this period. The plaintiff has been considerably weakened thereby, and is unable to participate in the conduct of his defense with his full vigor. The plaintiff has also been provided with his other meals at highly irregular hours, including 1 o'clock in the morning, which has also had a debilitating effect on his health during a time of considerable stress. These demands violate the same constitutional rights enumerated in Paragraph V.

VII

The defendant is George F. McGrath, who is sued in his capacity as the Commissioner of Correction of the City of New York. The defendant McGrath is responsible for the operation of the City Prisons of the City of New York in which the plaintiff is incarcerated. The defendant, City of New York, is a body corporate with the power to sue and be sued; the City Prisons are operated by the defendant City.

VIII

The defendant has applied for the relief he seeks by this action before Mr. Justice Davidson. His motions were denied on October 8, 1970, and again on October 13, 1970. Mr. Justice Davidson on October 13, 1970, also ordered the

plaintiff's counsel not to inform the jury as to why he sits before them unshaven. The plaintiff has no adequate remedy at law. He suffers irreparable harm which will continue unless enjoined by this Court.

WHEREFORE, the plaintiff respectfully asks this Court to:

1) Enter, a temporary restraining order and a preliminary and permanent injunction ordering the defendant to:

(a) Allow the plaintiff to shower and shave prior to his court appearances,

(b) Provide the defendant with a hot noon meal in conformity with his dietary restrictions,

(c) Provide the defendant with meals at regular hours.

2) Award the plaintiff such other and further relief as may be just, proper and equitable.

Daniel L. Meyers
Lewis M. Steel
Attorneys for Plaintiff

disuvero, Meyers, Oberman & Steel
350 Broadway, Room 310
New York, New York 10013

VERIFICATION

State of New York)
) ss.:
County of New York)

William A. Maynard, Jr., being duly sworn, deposes and says:

I am the plaintiff in the above action. I have read the attached complaint and the information contained therein is true to my knowledge.

15
WILLIAM A. MAYNARD, JR.

Sworn to before me this

14 day of October, 1970

DANIEL L. MEYERS
Notary Public, State of New York
No. 24-2684910
Qualified in Kings County
Comm. expires March 30, 1971

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
WILLIAM A. MAYNARD, JR.,
Plaintiff,

-against-

AFFIDAVIT

GEORGE F. MC GRATH, in his
capacity as the Commissioner
of Correction of the City
of New York and THE CITY OF
NEW YORK,

Defendants.
-----X

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

DANIEL L. MEYERS, being duly sworn, deposes and says:

1. I am an attorney and counselor at law duly admitted
to practice law in the United States District Court for the
Southern District of New York.

2. I make this affidavit for leave to move for a
preliminary injunction by order to show cause rather than by
notice of motion.

3. The defendants herein have deprived and are con-
tinuing to deprive plaintiff of elemental human rights
without regard to plaintiff's Constitutional rights. Unless
this Court immediately intervenes in this matter plaintiff
will suffer irreparable injury for all the reasons more fully
set forth in the within complaint.

4. No previous application for the relief prayed for
herein has been made.

5. That on the 14th day of October, 1970 at 12:15 P.M. Your
deponent telephoned Deputy Commissioner Roberts of the Legal Bureau,
informing him of his application for a stay. *Daniel L. Meyers*
he stated that he wished to be notified DANIEL L. MEYERS
when such matter was to be placed before
a judge of this Court

Sworn to before me this

13th day of October, 1970

Lewis M. Steel
NOTARY PUBLIC

LEWIS M. STEEL
Notary Public, State of New York
No. 31-916162590
Qualified in New York County
Commission Expires March 20, 1972