

6948

CAUSE NO. H-78-987

David Ruiz, et al

vs

James A. Collins, Director

of TDCJ-ID, et al

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IN THE UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

United States District Court  
Southern District of Texas  
FILED

FEB 23 1994

PLAINTIFF CLASS MEMBER, BOB MOORE'S MOTION

TO COMPEL DEFENDANT'S TO COMPLY WITH ORDER, JUDGMENT AND DECREE OF 1992,

Michael N. Milby, Clerk

SEC. XIX, SUBDIVISION "D" 2, AND MOTION FOR EVIDENTIARY HEARING

To the Honorable Judge of said Court:

Comes now Bob Moore, pro se, in forma pauperis, hereinafter referred to as the plaintiff, in the above styled cause and files his motion to compel defendants to comply with order, judgment and decree of 1992, Sec. XIX, subdivision "D" 2, pursuant to Rule 8, F.R.C.P., and prays this Honorable Court grant the relief he seeks herein.

Plaintiff further respectfully prays this Honorable Court apply the standards set forth in HAINES V. KERNER, 92 S.Ct. 594,595 in determining the relief he seeks, and would show the following in support thereof:

I

Plaintiff was designated to the TDCJ-ID Ramsey I Unit on 1-26-94, arriving on said date. Plaintiff's medical classification (PULHES chart) shows that he is a 3-E-T medical class inmate, which in the plaintiff's good faith belief classifies him to a job that is restricted to lighter, slower activity, pursuant to the TDCJ-ID's medical Administrative Classification Plan implemented by this Honorable Court.

II

Pursuant to the "interpretation" of said plan by Warden Wayne C. Scott and the Ramsey I Unit medical authority, Plaintiff was assigned to the Ramsey I Unit Garden Squad # 2.

III

Plaintiff would assert that the Garden Squad # 2 is in fact and in all respects a job identical to the medically unrestricted "Hoe Squads", entailing the exact same vigorous work performance in the agricultural fields, ditches, etc., i.e.; hand plowing, weeding, moving by hand large amounts of earth/soil, using an oversized garden hoe (commonly called an "aggie"), and other strenuous labor. The only difference in fact between the Garden Squad and the Hoe Squad is the name by which each is called.



The aforementioned work requires prolonged standing, bending, strenuous pulling, chopping, extended walking and/or running, etc., all of which increases Plaintiff's heart rate tremendously.

#### IV

Plaintiff objected to such job classification in person to Warden Wayne C. Scott. The warden's only reply was a statement that it wasn't beyond Plaintiff's medical class peramiters.

#### V

Plaintiff, whose blood preassure readings have ranged on specifically recorded occasions through 176/116 (pulse 118), 178/118 (pulse 118), and 194/124 (pulse 122), is being compelled to continue to work at a job which causes him, almost daily, to suffer symptoms of dizziness, nausea, headaches, shortness of breath, and at times moderate to severe chest pains.

Plaintiff continues to work under these impermissible conditions due to the sure knowledge that he and others similarly situated would face severe disciplinary action and punishment in violation of FRUIT V. NORRIS, 905 F.2d 1147, in the event he refused to continue such work.

#### RELIEF REQUESTED

Plaintiff prays that this Honorable Court compell defendant's to comply with this Honorable Court's order, judgment, decree of 1992, Sec. XIX, subd. "D" 2; to cease compelling this and other similarly situated inmates to perform work beyond their capabilities;

To order an evidentiary hearing to ascertain whether defendant's present Garden Squad # 2 policy, declaring it as a medical squad, is an abuse of authority;

To order a fine to be assessed upon said defendants in the amount of 5000 U.S. dollars or an amount deemed appropriate by this Court for said violation of this Court's previous 1992 order;

To order this plaintiff be awarded punitive damages for the pain and suffering he has sustained as well as exposure to further possibility of physical harm to his person.

Plaintiff further prays that the foregoing pleading not be construed as a separate 42 USC 1983 civil rights complaint, for in fact, the issues raised herein are presently within the jurisdiction of this Honorable Court's previous 1992 Court order.



Wherefore, premises considered, Plaintiff prays this Honorable Court grant him all relief to which he may be entitled in this proceeding.

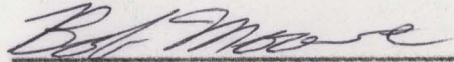
Respectfully submitted,



Bob Moore  
TDC # 652554  
Rt. 4, Box 1100  
Rosharon, TX 77583

VERIFICATION

I, Bob Moore, declare under penalty of perjury that the foregoing is true and correct. Executed on February 22, 1994.



Bob Moore