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CALIFORNIA PRISONS --

PRISONERS TAKE PRISONS TO COURT

By Mark Shwartz

San Francisco, Aug.5 (PNS) --

The California prison system, largest in the western hemisphere, is now on trial in the U.S. District Court in San Francisco.

This legal challenge started June 17, when Judge Alfonso Zirpoli began hearings on a suit filed by six San Quentin prisoners attacking the "lawlessness" of San Quentin and the California Department of Corrections.

The suit was prepared by two prisoners, Johnny Larry Spain and Ruchell Magee, with the immediate aim of having the prison's maximum security "adjustment center" declared unconstitutional, in violation of the Eighth Amendment protection against "cruel and unusual punishment."

The "adjustment center" -- also known as "the hole" -- is the section of the prison where convicts labelled as "trouble-makers" or in need of "protective custody" are kept in solitary lock-up.

WHY THE ADJUSTMENT CENTER?

The plaintiffs in the suit are Spain, Fleeta Drumgo, Luis

Talamantez, Willie Tate, David Johnson and Hugo Pinell. All six have been confined in San Quentin's "adjustment center" for three years.

In their defense, prison administrators call the six "California's most violent convicts" and point to the event which first thrust these men into the public eye: the alleged escape attempt from the "adjustment center" in August, 1971, when black leader George Jackson, author of "Soledad Brother," was killed along with three white guards and two white prisoner trustees. The six, all black or latino, were indicted for murdering the five whites and plotting Jackson's escape..

That indictment was thrown out of court last January, but the California attorney general has appealed that decision and prison officials say the six must remain in "the hole" until that appeal is ruled on.

The suit charges that prisoners in the "adjustment center" are shackled every time they leave their cells -- even to shower, have no outdoor exercise, and live with minimal lighting, contaminated food, poor medical care and restricted visiting privileges.

"The conditions are so bad," prisoner-plaintiff Hugo Pinell told Judge Zirpoli, "that I've seen people go crazy...For somebody to sit down and not rebel against these conditions, there's something wrong with that man."

In their brief, San Quentin Six attorneys Mark Merin and Fred Hiestand say that "the psychological torture, unimaginable to a free man in his wildest fantasies, far exceeds the more

apparent physical pains. The total isolation causes dramatic swings in mood, from anger and rage to depression and despair..." Worst of all, the suit claims, there is "nothing to break the endless monotony of hours, weeks, months, years in isolation without any normal human contact."

While admitting that the "adjustment center" has no special educational or recreational programs, the Department of Corrections defends its use as a place where "disruptive inmates" can "adjust" to their eventual return to the prison's main population. San Quentin psychiatrist Dianne Sutton testified that the long years of segregation have given the San Quentin Six an opportunity to engage in "self-analysis" by studying, reading, or writing poetry. She said, "this is a healthy adaptation to a very unpleasant environment."

Witnesses on both sides depict the "adjustment center" as a scene of incessant warfare -- as much a war of nerves as of actual physical combat.

A former guard, William Whitney, presented the court a copy of his letter of resignation: "When I walk within the walls of San Quentin, I can feel the muscles in my body tense. My back and neck draw tight; often my head aches, for fear does strange things to the human body...My years in the prison have cost me more than I will ever realize."

Another guard, Cedric Jackson, described a brutal clubbing of plaintiff Hugo Pinell by guards, one of many such incidents described during the trial. Pinell himself was on the stand for four days, and told the judge "What I've said is only a

minor part of what is happening...If I was to tell you that at one time my mouth was opened and shot with gas, you would not believe me." He concluded, "It's foolish on my part to be chained and yet attack the officer. But it's the only way I can defend the others."

WHO SETS
THE SENTENCE?

Besides asking Judge Zirpoli to close down "the hole," the six are also challenging California's indeterminate sentence law, under which convicts are given terms such as "one year to life," and their actual release dates are set by the state parole board, acting on recommendations from prison personnel.

This system, the six charge, has subjected them to punishment not warranted by their original convictions. Fleeta Drumgo, for example, has served seven ^{YEARS} ~~months~~ of a "six month to 15 year" sentence for second degree burglary -- including four years in various "adjustment centers."

Drumgo has testified to the "maddening" effect of his long term confinement in "the hole," saying he has to stuff his ears with cotton just to cut down the noise level. "My life," he told the court, "has been threatened so many times, I can't count them...Within the last ten days, a guard said 'You know we're going to get you -- we don't care about these hearings in court.'"

The hearings in San Francisco federal court have given the six men their first taste of freedom since the August 21 incident three years ago. Against the advice of prison administrators,

Judge Zirpoli has allowed the six men to sit in court one at a time as witnesses, without chains or shackles. During hearings in state court on the 1971 incident, they were chained and shackled to their chairs in a court room divided by a bullet proof plexiglass shield and guarded by armed prison officials.

The six, along with other prisoners in "the hole," are also chained during visits at San Quentin with family, friends, and attorneys. Dr. Richard Fine of San Francisco General Hospital told Judge Zirpoli that Fleeta Drumgo tearfully asked him to stop a court-ordered medical examination after about an hour because he was too excited. "He told me," Dr. Fine testified, "that he had not been in a room that large with another human being, unrestrained, for many years."

JUDGE CAN NOT
BE WARDEN

According to Judge Zirpoli, "the basic solution to all these problems lies in the legislature. The courts have been turned into avenues of first resort instead of last resort. The truth of the matter is, the courts are the least adequate financially to handle these matters."

Even if the federal court does find the "adjustment center" unconstitutional, the problems of enforcing such a ruling are overwhelming -- as the current trial itself shows. When plaintiff Johnny Spain appeared in court with a bloodstained coat and told the judge he had been forcibly shaved that morning by several prison guards, Zirpoli said he could not intervene:

"Why should I play warden every day?"

In 1966, another federal judge in San Francisco ordered the abolishment of "strip cells" at California's Soledad prison. These cells are isolation punishment units with no toilet, no water, no furniture. Yet "strip cells," now called "management cells," are still in use at all prisons.

Despite these problems, prisoners see the federal courts as their only hope. As Spain wrote in one petition, the California state judiciary is but "an extension of the prison itself -- a place in which punishment is meted out, rather than a court of law in which justice is done."

"I don't look for justice in this action," Hugo Pinell told Judge Zirpoli. "But I hope your decision will make up for the thousands of men who have never been given support."

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Mark Shwartz covers California's criminal justice system for Pacifica radio and a variety of other stations.

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