

1981

Leo Duran v. Lawrence Morris, Warden, Utah State Prison : Brief of Respondent

Utah Supreme Court

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Recommended Citation

Brief of Respondent, *Duran v. Morris*, No. 16871 (Utah Supreme Court, 1981).
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[illegible][illegible]

RELIEF SOUGHT ON APPEAL

Respondent seeks affirmance of the lower court order dismissing with prejudice appellant's petition for a Writ of Habeas Corpus.

STATEMENT OF THE FACTS

On June 27, 1979, Frank Vaughn, an inmate at the Utah State Prison, was assaulted and stabbed by three inmates. After being removed to the prison hospital, inmate Vaughn informed Warden Morris and other prison officials that appellant Leo Duran, was one of his attackers. Appellant was then administratively segregated and transferred to Maximum Security, pending completion of an investigation of the stabbing and any consequent disciplinary proceedings.

Appellant's custody status was initially reviewed on July 10, 1979 by the Unit Management Team. His custody status was subsequently reviewed; by the Unit Management Team on August 7 and September 11; by the Central Classification Committee on July 23 and August 8; and by the Classification Review Committee on July 27 and August 17. (Appellant's Chronological Notes (hereafter "C-notes"), pp. 5-6, Appendix A).

Prison officials completed their investigation of the stabbing on September 12, 1979. A Major Disciplinary Hearing was held on September 18, 1979, at which appellant was found guilty of possession of a knife and of engaging with

other inmates in the assault upon Frank Vaughn (R.23). Evidence relied upon at the hearing included inmate Vaughn's statement to Warden Morris as well as information acquired from five or six confidential informants (R.22, 23). The disciplinary action taken was to reduce appellant's classification to Maximum Security as provided for in the prison regulations (R.32).

Appellant's custody status was then reviewed by the Central Classification Committee on October 5 and by the Unit Management Team on October 16, November 16, December 11, 1979, and January 8, 1980 (Appellant's C-Notes, p. 7-8, Appendix A).

At the January 8, 1980, meeting, the Unit Management Team recommended that appellant be returned to medium classification. The Unit Management Team concluded that seven months in Maximum Security was of sufficient duration for appellant's involvement in the stabbing. Appellant, however, was maintained in Maximum Security at that time, because of his attempt to smuggle marijuana into the prison and his refusal of a direct order while in Maximum Security. He was subsequently returned to Medium Security on March 17, 1980.

ARGUMENT

POINT I

ADMINISTRATIVE SEGREGATION, AS USED BY UTAH STATE PRISON AUTHORITIES, COMPORTS WITH THE DUE PROCESS REQUIREMENTS OF THE UNITED STATES CONSTITUTION.

The constitutional rights that accompany a prisoner behind the prison walls and protect him during incarceration are the Eighth and Fourteenth Amendment protection against cruel and unusual punishment, Estelle v. Gamble, 429 U.S. 97 (1976), and the Fifth and Fourteenth Amendment protection against the imposition of any punishment without adherence to certain due process procedural guarantees, Wolff v. McDonnell, 418 U.S. 539 (1974).

The threshold question is whether a liberty interest protected by the Due Process Clause of the Fourteenth Amendment is at stake. Board of Regents v. Roth, 408 U.S. 564, 571 (1972); Morrissey v. Brewer, 408 U.S. 471, 481 (1972). There is no constitutionally guaranteed right to any particular housing, or classification during incarceration. Prison officials may classify, or house inmates wherever and however they wish, absent a punishment purpose therein. Therefore, a change in the classification or confinement of a prison inmate, standing alone, is not sufficient to trigger the protections of the Due Process Clause. Meachum v. Fano,

427 U.S. 215, 224 (1976); Montayne v. Haymes, 427 U.S. 236, 242 (1976); Wolff v. McDonnell, supra, at 556-557; Twyman v. Crisp, 584 F.2d 352, 357 (10th Cir. 1978); Lavine v. Wright, 423 F.Supp. 357, 360 (D. Utah 1976).

State statutes, or prison regulations, however, may create a liberty interest embraced within the Fourteenth Amendment, which is sufficient to invoke the protections of the Due Process Clause. Wolff v. McDonnell, supra, at 557. Such state created liberty interests are as broad as and no broader than the statute or regulations from which they arise. There are no applicable Utah statutes, other than statutes requiring the State Division of Corrections to promulgate prison regulations. Examination must be made of the Utah Prison regulations which were in effect at the time of the acts complained of.

Appellant alleges that he was unconstitutionally confined in Maximum Security and administratively segregated from June 27, 1979, to September 10, 1979. The current prison regulations were passed in November, 1979, and formally adopted on June 30, 1980. Due process rights at the prison in 1979 were fixed by the then applicable prison regulations and not the now current regulations (Utah State Prison Manual of Procedures, June 30, 1980). Most regulations cited in appellant's brief are from the now current regulations. They were not in effect from June 27, 1979, to September 10,

Inmates have a liberty interest where prison regulations give them a reasonable expectation that the rights and privileges they enjoy, while incarcerated, will not be denied them absent the occurrence of specified events. Generally, rules covering the classification and transfer of inmates place no limitations upon the discretion of prison authorities. A change in classification or housing is not conditioned upon the occurrence of a specified event. Where such broad discretion exists no liberty interest is created in the inmates. Daigle v. Hall, 564 F.2d 884, 885-886 (1st Cir. 1977); Lombardo v. Meachum, 548 F.2d 13, 15 (1st Cir. 1977); Wakinekona v. Olim, 459 F.Supp. 473, 476 (D. Haw. 1978); Bills v. Henderson, 446 F.Supp. 967, 973 (E.D. Tenn. 1978).

The court, in Bills v. Henderson, supra at 973, stated that where the purpose of administrative segregation is to provide a place of maximum security for the protection of inmates placed there, or of others from those inmates and to promote institutional security, "[t]he action of prison officials in imposing administrative segregation need not be conditioned upon the occurrence of specified events." Administrative segregation is a preventive, rather than punitive, procedure. It focuses upon the present and future, rather than past, actions of the inmate. Kelly v. Brewer, 525 F.2d 394, 399 (8th Cir. 1975).

The Utah State Prison Regulations, in effect at the time of appellant's reclassification, specifically provided for the imposition of administrative segregation:

. . . when there exists good cause to believe that the control, management, safety, and/or security of the institution, staff, public, or inmates is threatened by the continued presence of the particular inmate in his present housing or custody and that an immediate and temporary change in housing or custody will help to reduce such threat.

(R.38) (emphasis in original).

The Utah Prison Regulations arguably create two liberty interests. The first arises in the initial decision to administratively segregate an inmate in an emergency. The second arises in the subsequent classification review hearings.

To determine whether any due process protections are applicable to the decision to administratively segregate an inmate, this Court must weigh the interests of the inmate against the needs and objectives of the correctional institution. Wolff v. McDonnell, 418 U.S. 539, 556 (1974). In Lavine v. Wright, 423 F.Supp. 357, 364 (D. Utah 1976), the court said:

The institutional interests at the time of an assault on an inmate to protect the safety of other inmates and guards and to provide security in the facility outweigh the limited intrusion on individual interests which are at a minimum when the individual inmate is involved in endangering the security of the institution.

The court also recognized the broad discretion of prison administrators to classify and transfer inmates. Id. at 364.

In the instant case, appellant was implicated in the assault and stabbing of inmate Frank Vaughn. Consequently, he was administratively segregated and transferred to Maximum Security pending completion of an investigation of the incident.

Prison authorities had "good cause" to believe that the safety of the inmates and security of the institution were threatened by the continued presence of appellant in the general prison population. Prison authorities could reasonably fear additional acts of violence by appellant, as well as acts directed at appellant in retaliation for his assault on inmate Vaughn. Violence of this nature threatens the safety of prison staff and the overall security of the institution. The decision to administratively segregate appellant was reasonable and justified. The Court in Lavine held, however, that "[t]he prison administration . . . [had] created a liberty interest in inmates who are subjected to administrative segregation by providing that they will not be confined in maximum security for more than thirty days without a classification hearing." Id. at 365. The purpose of this and subsequent hearings is to review the inmate's continuing custody status.

In Kelly v. Brewer, 525 F.2d 394, 400 (8th Cir. 1975), the court said:

Since there must be a valid and subsisting reason for holding an inmate in segregation . . . where an inmate is held in segregation for a prolonged or indefinite period of time due process requires that his situation be reviewed periodically in a meaningful way and by relevant standards to determine whether he should be retained in segregation or returned to population.

In the instant case, appellant was administratively segregated and transferred to Maximum Security on June 27, 1979. His status was initially reviewed on July 10, 1979, well within the fifteen day requirement (R.37). Appellant's custody status was subsequently reviewed on July 23, July 27, August 7, August 13, August 17 and September 11, 1979. The major disciplinary hearing, regarding appellant's involvement in the stabbing of inmate Vaughn, was held on September 18, 1979, just six days after the investigation was completed (p. 5-6 of Appellant's C-Notes, Appendix A).

These classification review hearings were not perfunctory. At the hearings held on July 23 and August 7, the review committees recommended that appellant be returned to medium security. The reason for this was that each committee was unaware of appellant's involvement in the stabbing of inmate Vaughn. Having found nothing in appellant's record which justified his being continued in

Maximum Security, the committees recommended the change to Medium Security. These recommendations were denied by the Central Classification Committee, since it had information regarding appellant's involvement in the stabbing (p. 5-6 of Appellant's C-Notes, Appendix A). Appellant received meaningful review hearings and was therefore not deprived of a state-created liberty interest without due process of law.

Appellant relies on Wright v. Enomoto, 462 F.Supp. 397 (N.D. Cal. 1976), aff'd mem., 434 U.S. 1052 (1978), for the proposition that failure of prison authorities to follow their adopted rules and regulations results in a denial of due process. In that case, the court extended the due process protections enumerated in Wolff v. McDonnell, 418 U.S. 539 (1974), to the decision to administratively segregate an inmate. Both the California regulations and the facts in Wright distinguish it from the instant case. The court found that under the California rules, ". . . the inmate has an interest, conferred by statewide regulation . . . in not being confined in maximum security segregation unless he is found, for clearly documented reasons, to come within the standard set by the rules." Id. at 403 (emphasis added). Such documentation had to exist at the time the decision to administratively segregate the inmate was made. The reason for this is that the California regulation, unlike the Utah regulation, was not designed to deal with immediate

administrative segregation in an emergency situation. The California regulation required that a hearing be held and that certain procedural protections be observed before ordering administrative segregation. These procedures were not being followed by California prison officials. On the facts of Wright, there was no immediate threat to the inmate, other inmates or to the prison facility. The court concluded that the minimal due process protections called for in Wolff could be applied in the California prisons without threatening prison administration or safety.

Appellant also relies upon Tasker v. Griffith, 238 S.E.2d 229 (W. Va. 1977), to suggest that he may only be administratively segregated for three days pending investigation in a disciplinary proceeding. The court in Tasker based its decision upon the fact that prison regulations in West Virginia expressly set a three day limit. No such limitation existed in the Utah regulations at the time appellant was administratively segregated.

Appellant further asserts that his confinement in Maximum Security following the Major Disciplinary Hearing violated his constitutional rights (Appellant's Brief at 10). Appellant's custody change was not made contingent upon approval of the Classification Committee

(Appellant's Brief, exhibit B); therefore, Rule 8.2(9)(a)1., Utah State Prison Rules and Regulations (Appendix C), is applicable. This rule requires that the classification assigned as a disposition of the disciplinary committee be reviewed within 30 days. Appellant's custody change was initially reviewed and approved on October 5, 1979, just 18 days after the disciplinary hearing.

Subsequently, appellant's custody status was reviewed by the Unit Management Team on October 16, November 16, December 11, 1979, and January 8, 1980. (Appellant's C-Notes, p. 7-8, Appendix A). Appellant's constitutional rights have not been violated.

CONCLUSION

The procedures followed by Utah State Prison officials in initiating and reviewing administrative segregation are consistent with the due process requirements of the Fifth and Fourteenth Amendments. These procedures were strictly adhered to in this case. Appellant's constitutional rights have not been violated. The order of the Third Judicial District Court, dismissing with prejudice appellant's petition for a writ of habeas corpus

should be affirmed.

Respectfully submitted,

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Attorney General

ROBERT N. PARRISH
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CERTIFICATE OF MAILING

Mailed three copies of the foregoing Brief of
Respondent to Mr. Douglas E. Wahlquist, Attorney for
Appellant, 32 Exchange Place, Salt Lake City, Utah 84111,
this 24th day of March, 1981.

Robert N. Parrish

PAGE FIVE

4-26-79
BOARD OF
PARDONS:

Parole October 9, 1979
scs

5-1-79
Class. Comm.
Special:

Mr. Duran was heard by the A-Block Classification Committee because he is on the idle list. His reason for being idle is that he, on his own free will, terminated his employment in the Building Trades Vocational Training Program. This was done on April 3, 1979. Therefore, it is recommended that Mr. Duran be placed on a cell restriction status between the hours of 8 AM and 4 PM until he obtains employment. He was also told that if he could get a written verification that he would be accepted for employment within the next two or three weeks that his status would be reconsidered. Mr. Duran was present and informed of the decision.
WFH/jar

5-4-79
Class. Rev:

Request for cell restriction 8-4 denied until a procedure is formulated and approved.

6-7-79
C-note:

Duran enrolled in high school knowing our policies about high school graduates. Checking over his records revealed he had graduated. In my opinion, he enrolled to be in school with the ladies./K. Brocm
pb

6-12-79
Class. Comm.
Special:

Mr. Duran appeared before the Classification Committee because he has been on an idle status. However, he has recently become employed with the Project Discovery which has not been C-noted in his jacket. However, at this time he will not be recommended for Medium 6 PM Lockup. No change in his custody. Mr. Duran was present and informed of the decision.
WFH/jar

6-18-79
C-note:

I noticed Duran looking into the class rooms. He was carrying a paper. Later I found out it was an inmate check-out form. He acted as if he wanted to sign it. When I confronted him he didn't want to give me the paper and then he left the area. I have told him on several occasions to stay away from the area. / Broome
pb

6-27-79
Transfer:

From A-247 to MAX A-6 and IDLE to ADM SEGR

7-3-79
Transfer:

From MAX A-6 to MAX C-6

7-10-79
Class. Comm.
Special:

Inasmuch as disciplinary has not been completed on Mr. Duran, he will be continued for two weeks. Mr. Duran was present and notified of the decision.
WFH/jar

7-23-79
CENTRAL
Class. Comm.:

As referred by A Block Unit Management Team, Leo appeared before the Central Classification Committee for the purpose of having his classification status reviewed. It was the decision of the Central Classification Committee to allow Leo to maintain his medium classification status. This decision was based on the fact that Leo has been at Maximum Security for approximately one month and sufficient time has been granted and allowed for the issuance of an inmate violation report if such an action was called for. This situation is complicated by the fact that there is little if any information contained within the jacket for the Central Classification Committee to review and act upon.
RB:pb

7-27-79
CLASS.
REVIEW:

Maximum classification approved.
lwc

7-27-79
Transfer:

From ADM SEGR to SEGR
CW #9

7-31-79
Transfer:

From MAX C-8 to MAX F-2

8-7-79
Class. Comm.
Reg. Class:

Leo appeared before the Classification Committee and presented us with a Phase I application to be returned to the building. It was the unanimous decision of the Maximum Security Unit Management Team that Leo be referred to Central and Exec. for Medium 6 o'clock lockup in view of the fact that there is absolutely nothing in his jacket suggesting justifying or eluding to any rationale for him being placed in Maximum Security.
TB/jar

8-15-79
C-NOTE:

Leo Duran was implicated and involved in the stabbing of Frank Vaughn and for this reason was classified Maximum Security. Any decision to remove him from that classification should not be made, pending the completion of the investigation of this implication, which will be completed by September 1, 1979.
FVDV:lwc

8-17-79
Class.
Review:

8-7-79 Unit Management Team Screening - Request for Medium 6:00 lock-up approved.
8-13-79 Central Classification Committee Hearing - Approved above request.
8-17-79 Classification Review - Denied request for Medium 6:00 lock-up until investigation on stabbing is complete.
Refer to packet filed herein for details.
scs

9-11-79
Unit Management
Monthly:

Leo's case was reviewed by the Unit Management Team on this date. Leo has been maintaining extremely well since being placed in Maximum Security on June 27, 1979, for alleged involvement in a stabbing. Leo still has not received a writeup, even though there is a C-note entry on August 15, 1979, from Mr. VanDerVeur stating that the investigation would be complete by September 1, 1979, and writeups issued. Leo to his credit asks for nothing. He gets involved in no altercations at the Maximum Security Unit and is maintaining very well. No change was made in his custody due to a directive from Mr. Van Der Veur and Mr. Hatch.
TVB/jar

9-12-79
C-Note:

Completed investigation of Leo Duran's involvement in Frank Vaughn stabbing today. Write-up will be made 9/13/79. (See C-note 8/13/79)
FVDV:lwc

9-18-79
MAJOR
DISC.:

COMMITTEE: Larry Robinson, Chairman, Thomas Bona and W. R. Moss, Members.
FINDINGS: Guilty of possession of a knife and engaging with Robert Romero #13687 and Rudy Duran #14247 in the stabbing of Frank Vaughn #13692. The investigator's report names five or six informants who witnessed the movement of Rudy and Leo Duran, as well as Robert Romero. Lt. Mark Roberts was present as Staff Representative.
DISPOSITION: Reduction in classification to Maximum Security; refer to County Attorney's office for investigation and possible prosecution; refer to Unit Management Team with referral to the Board of Pardons.
BASIS: This is a management and control problem.
lwc

PAGE SEVEN

10-5-79

C-Note:

By referral from Major Disciplinary Committee, September 18, 1979, Leo appeared before a convened body of Central Classification October 5, 1979. Leo was advised as to the reason for the hearing - that being the Major Disciplinary Committee's recommendation that he be referred to the attention of the Board of Pardons, as implied, due to the seriousness and gravity of the infraction of which he had been determined to be guilty.

Subsequent to lengthy deliberation with Leo, it was the determination of the Committee to refer him to the Board of Pardons. This decision was derived for the following reasons:

1. Contrary to Leo's insistence, it was the judgement of the committee that he be given proper due process prior to the determination of guilt.
2. In the judgment of the Committee, the infractions of which Leo was determined to have commissioned were of such a serious magnitude as to raise reasonable doubt as to the appropriateness and advisability of his returning to the Community at this time.

Richard Burt/scs

10-10-79

90 Day Disposition filed:

On this date a 90 day disposition was filed with SL County Attorney and SL Clerk of the Court on any untried Criminal charges.
B. Tisher, Records

10-10-79

Transfer:

From MAX H-10 to MAX H-4

10-10-79

BOARD OF
PARDONS:

Parole date of October 9, 1979, rescinded. New parole date October 13, 1981.
scs

10-16-79

Unit Management
Team:

On October 10, 1979, Leo returned to Maximum Security after appearing before the Board of Pardons. He was quite hostile and upset over his parole date rescinded and given a two year date. However, he mellowed out after a few hours and has been no problem in the facility since that time. No change was made in his custody.
TVB/jar

11-4-79

Transfer:

From MAX F-2 to MAX A9

11-7-79

Transfer:

From MAX A-9 to MAX F-2

11-16-79

Unit Management:

Leo recently received a writeup for smuggling six balloons into Maximum Security. He is on a pending status at this time. No change will be made in his custody.
TB/jar

11-6-79

C-Note:

Leo was removed from A Section and returned to his cell in G Section this date. He stated he would no longer physically resist when given an order./Stoddard
pb

1/18/80

Class. Review:

Request for Medium B classification denied.

1-25-80

Class.
Review:

Request for Medium B classification denied due to behavioral problems in Maximum Security.
lwc

2-6-80

Unit Management
Team:

Mr. Leo Duran was reviewed at this time. It was decided by the Unit Management Team to recommend Medium Custody to be housed on A-Block.
WFH/jar

CHRONOLOGICAL NOTES

PAGE EIGHT

11-30-79

C-Note:

The following write-up was to be heard by the Major disciplinary committee. Due to an administrative oversight the write-up was not heard. Lt. Robinson, the Hearing Officer, had two deaths in his immediate family, consequently he was called away from the institution. By the time the write-up was discovered the hearing date had expired. The write-up read as follows:

I was standing by the visitors entrance to the maximum visiting room waiting for the visitors to enter the sallyport area. I observed Leo walk to the drinking fountain, place an object in his mouth and take a drink. He then placed his right hand deep into his pants pocket and pulled it back out in a grasping fashion. He then appeared to pop a balloon like object in his mouth. I said, "Leo, don't swallow that." He rearranged the item in his mouth and walked over towards me so that we could converse through the sallyport screen (he was standing in the sallyport). I said, "spit out what you put in your mouth and give it to me." He said, "what?" I repeated the order. He turned around and walked out of the sallyport complaining to his visitors about my request. He went to the drinking fountain and took a drink, swallowing the item it appeared, while his borthor Rudy attempted to shield his movements from my view. At 2:40 p.m. Sgt. Vaifanua and I went to F-Section to shake Leo down, Leo was secured in the shower as we entered so Officer Day let Leo out of the shower and we shook him down. We then started toward Leo's cell which was next to the shower as Leo was being secured in the shower. Leo slipped past us and into his house as I ordered him to stop. He grabbed for a green balloon like object on the bed and I grabbed him. A scuffle then ensued as he attempted to place the object in his mouth and I attempted to stop him. Sgt. Viafanua entered the cell and assisted me in subduing Leo and relieved him of the object in his hand. Leo then went to the shower and was secured. On the bed Sgt. Viafanua and I found five more (six total) balloons, three blue, two green, and one yellow. The balloons were filled with a marijuana like substance and were attached to the write-up./Lt. Robert Stoddard
pb

12-11-79

Unit Management
Team:

Leo's case was reviewed by the Unit Management Team on this date. Leo has functioned very well since being placed in Maximum Security approximately six months ago. There was one incident where he had his family bring in some balloons with marijuana in them. He refused a direct order from the Director of Maximum Security to release those balloons and a scuffle ensued. Due to a technicality on timing the writeup was turned into a C-Note. However, they were designate to the balloons as they were found in his possession. No change was made in his custody at the time.
TB/jar

1-8-80

Unit Management
Team:

Leo came to Maximum Security in June for his involvement for the stabbing of Frank Vaughn. Since being in Maximum Security he has been maintained an extremely low profile with one exception of having some balloons. Leo basically has never been a management problem while in Maximum Security and is functioning very well. It was felt by the Unit Management Team that seven months at Maximum Security for this offense is of satisfactory duration and, therefore, we are referring Leo to Central Classification for Medium.
TB/jar

1-14-80

Central
Class.:

Leo appeared before the Central Classification Committee for the purpose of being considered for Medium Classification with a Medium B Management Level Status. During the deliberation process it was determined that Leo was classified Maximum due to his complicity in the stabbing incident which transpired on A Block at or about September 1979. According to Unit Management Team entry Leo's functioning at Maximum Security has been acceptable. It was the decision of the Central Classification Committee to refer Leo for Medium Classification, Medium B management level status.
RB:pb

APPENDIX B

AMENDMENT V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

AMENDMENT VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

AMENDMENT XIV

Section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2.

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial Officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

APPENDIX B

Section 3.

No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4.

The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

Section 5.

The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

2 - Major Dispositions. At the completion of the major disciplinary committee hearing, the committee chairman shall be responsible for completing the committee's report which shall include the findings, the evidence relied on, the basis or reasons for the decision and the final disposition. If any omissions in documentation are necessary, the reasons for the omissions shall be stated in the record, except as provided for in 4.1 (f).

. . .

Major violations may be disposed of in one or any combination of the following ways (suspended sentences will not be imposed):

. . .

(9) Reduction in classification to a level determined appropriate by the disciplinary committee.

(a) When this option is chosen the following conditions shall be observed:

1. The individual thus reduced in custody shall not remain in that custody more than 60 days before being heard by the designated classification committee. This committee may choose to continue the classification assigned by the disciplinary committee or may change classification to any level deemed appropriate and consistent with classification procedures. Reductions to maximum shall be reviewed within 30 days. All other reductions shall be reviewed with 60 days. The inmate may be moved to a new housing area consistent with the major disciplinary committee decision.

APPENDIX C

2. The classification assigned as a disposition of the disciplinary committee shall become effective at the time of the committee's decision. The final decision is subject to review by the classification review committee. This review shall be made within 15 days or at the next regularly scheduled meeting. This committee may exercise either of two options:
 - a. Accept the disciplinary committee's recommendation.
 - b. Reject the committee's decision and substitute another custody. Under no circumstances shall this substitute custody be more restrictive than that imposed by the disciplinary committee.