

Merhige Won't Lift Prison Injunction

RICHMOND (AP)—U.S. District Court Judge Robert R. Merhige Jr. refused the state's request Monday to vacate an injunction dealing with a revision of penal disciplinary procedures.

After listening to about four hours of testimony, Merhige ruled the state had not presented a "scintilla" of evidence showing the need for lifting the injunction.

The hearing stemmed from an order Merhige issued 11 months ago calling for a drastic revision of the state penal system's disciplinary procedures and giving prisoners expanded procedural rights in intraprisson hearings on rules infractions.

In conjunction with the order, Merhige restrained penal officials from violating its terms.

Three of the state's top penal officials testified Monday they did not intend to violate terms of the order but wanted the accompanying injunction lifted.

In essence, they testified the injunction with its accompanying threat of contempt of court action had an adverse effect on the administration of the 6,000-inmate prison system.

The officials were W. K. Cunningham Jr., head of the division of corrections; Otis L. Brown, secretary of human relations; and William L. Lukhard, director of the State Department of Welfare and Institutions.

Cunningham said some guards "looked the other way" when confronted with rules infractions because they feared possible contempt of court citations for their decisions.

Merhige pointed out, however, that since the order has been in effect, no state penal official has been cited for contempt of court in connection with the order.

tem administration because of Merhige's order.

Merhige said he wanted to lift the injunction as quickly as possible but was not giving any solid reason Monday why he should comply with the state's request.

"We are going to obey the order of the court," Cunningham said. He added he thought the injunction should be lifted.

Cunningham testified his feelings of possible trouble in the prison system were entirely "subjective" based on 30 years of experience as a penal official. He said the lifting of the injunction would buoy the morale of the prison guards, which he said is at a low ebb.

Both Brown and Lukhard echoed Cunningham's feelings. They, too, could not pinpoint any solid evidence of possible disruption of the prison system.