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The Courts

**At the Nazareth Court for Administrative Affairs
Sitting in Zalmon Prison**

PP 24334/02/13

Before: The Honorable Judge Yonatan Avraham

Date: April 30, 2013

In the matter of: _____ **Qassem, ID No.** _____

The Petitioner

v.

- 1. Israel Police**
- 2. Israel Prison Service**

The Respondents

Attending: On behalf of the petitioner: in person and by counsel, Adv. Daniel Shenhar
On behalf of the respondents: Advocates Rivi Shapira and Moran Ohana

Protocol

Advocate Shenhar: The petitioner is sentenced for a long incarceration period. Visits are the only way for him to be in contact with the world outside prison walls. His mother has not visited him as of February 2012, after she had a stroke and she cannot visit in the regular visitation format in which security inmates receive visitors. Therefore we applied to the prison where the petitioner is held, together with medical records and requested to allow his mother to visit him. The medical records were also attached to the petition and they attest to her severe medical condition. If petitioner's mother is not allowed to see him in an open visit she will simply be unable to ever see him again.

To the court's question if the petitioner was permitted to see his mother in non open visits the answer is yes, but ever since she had a stroke the mother cannot visit him in the framework of regular visits. She is confined to a wheel chair, she is hard of hearing, she neither hears nor sees well, she does not clearly understand what one says to her. She cannot use a telephone receiver.

With respect to the brother, now I understand that the reason, due to which the brother is not held in prison, stems from the petitioner himself. The answers that we received from the prison were not substantiated and therefore I had no way of knowing that this was the reason. The brother himself was an inmate about twenty some years ago. He has not seen his brother for over two years.

The request is to reconsider the decision of the Israel Prison Service (IPS) to refuse to allow him to enter.

Advocate Shapira: Reiterates the response. The argument of my colleague is not clear to me and the up-to-date documents which were attached to the petition are not clear to me either. As we noted petitioner's last request was considered in October 2012. I don't have a new request under consideration. Indeed in prison the inmate was approached in recent days in view of the fact that the petition was filed to request new documents but there is no decision and the new request has not yet been considered and therefore the argument is that the petition is premature, and was filed before the administrative procedure has been exhausted, unless we discuss today the decision from October 2012.

With respect to the October 2012 decision I would like to submit petitioner's disciplinary forms, intelligence information (**submitted consensually**).

Petitioner's conduct is very negative and has even been like that for a long period. The two requests which are requested by the petitioner are benefits which are subject, first and foremost, to positive conduct, and the petitioner does not satisfy this basic condition and in view of the above on the date on which the decision was given. Therefore we are concerned with a reasonable decision.

I precisely wish not to respond to the argument concerning the mother's condition, in view of the fact that the documents which were submitted to us today are different from the documents which were submitted on or about the date of the decision. If my colleague so wishes, he can submit a request in an orderly manner in view of the up-to-date documents which were attached to the petition itself. The request will be considered and then I will be able to respond to the argument concerning the medical condition of the mother.

I see in petitioner's administrative file the position of the general physician of Gilboa prison who reviewed the medical records which were submitted today and which states that according to the letter of the health fund's physician this case concerns diabetes, a stroke which occurred in February 2012, and consequently bodily paralysis. She is under supervision of the treating physician, she can move around with the assistance of a walker. It is not a terminal disease, but rather a chronic illness.

To come today and look at a medical record which was not reviewed by the competent authority.

I would like to conclude and argue that according to the intelligence information and the number of disciplinary offences of which the petitioner was convicted, the decision to deny his two requests is indeed a reasonable decision.

Decision

My decision will be given later and will be sent to the parties.

Given today, Iyar 20, 5773 (April 30, 2013), at the presence of the attending parties.

(signed)

Yonatan Avraham, Judge

Decision

The petitioner, a security prisoner, serves 35 life sentences for 35 murders and additional security offences.

His request to enable him to have an open visit with his mother who allegedly had a stroke and cannot see and hear through a partition, and to also enable him to see his brother who is a former inmate, was denied by the IPS due to the fact that he did not satisfy the preliminary condition of proper conduct, as there exists against him ample intelligence information (which was consensually presented for my review) and due to the fact that he was charged with many disciplinary offences. In addition it was argued that the condition of the mother was not as described.

During the hearing which was held before me, the parties reiterated their above arguments. On the one hand, I was presented with the medical records regarding the condition of the mother, and on the other, I was presented with transcripts of the disciplinary hearings, the ample intelligence information and the reference of two of the prison's physicians to the medical records pertaining to the above.

Having reviewed all of the above I determine that the petition has no basis and should therefore be denied.

Firstly, an open visit is a privilege which is conditioned, like all other privileges granted to inmates, on proper conduct.

The petitioner is far from being an inmate whose conduct is proper, as far as east is from the west. Ample and severe intelligence material was accumulated against him and he was charged many times with disciplinary offences.

Notwithstanding the above, I considered the possibility of accepting the request concerning the mother in view of her condition, at least partially, for humanitarian reasons, but after I have reviewed the responses of the IPS' physicians who had reviewed the medical records concerning the mother, I was convinced that she indeed suffers from chronic illnesses (diabetes and heart disease), but I was not convinced that she suffers from a terminal condition, or that her condition is so severe to such an extent that cannot communicate with her son through a partition.

Therefore, the petition is denied.

Given today, Iyar 20, 5773 (April 30, 2013), in the absence of the parties.

(signed)

Yonatan Avraham, Judge