

Judge rules in school case Segregating hepatitis carriers banned

By MARY BETH PFEIFFER

A federal court ruled for the second time yesterday that the Board of Education violated the constitutional rights of 48 mentally retarded hepatitis carriers by segregating them in special classrooms in city schools.

In a 43-page decision, Brooklyn Federal Court Judge John R. Bartels said the board's argument that normal children would contract the disease was "decidedly unpersuasive" and based on "sparse" medical evidence.

The decision is similar to one handed down in September, when Bartels ordered the board to reinstate the barred hepatitis carriers because they were discriminated against illegally. The board again asked permission to isolate the carriers in October after preparing a plan for each of the students.

The board proposed that the 48 children identified thus far as carriers of Type B hepatitis — a strain which most of them picked up from living in institutions like the Staten Island Developmental Center — be placed in nine special education classes in schools throughout the city.

In his decision, Bartels said the board

"overreacted" by separating the 48 carriers, all in special education classes, from non-carriers. On Staten Island, three severely retarded carriers were taken from their special education class

at PS 69, Merrymount Ave., New Springville.

"The medical evidence upon which the proposal is based is sparse and fails to demonstrate any casual relationship between the classroom setting and transmission of the virus," Bartels said.

He added that the board could not even demonstrate that one child had been infected with hepatitis, although some carriers had been in the school system "for several years."

Bartels, who presides in the prece-

dent-setting Willowbrook Consent Decree case, which revolutionized theories of care for the retarded, said the board's segregation violated law requiring education in the "least restrictive environment."

Since his original ruling in September, the barred hepatitis carriers have been attending their regular classes.

It was not known yesterday whether the board planned to appeal Bartels' decision. A board spokesman could not be reached for comment.

3 get \$3,500 at center

Three men armed with revolvers reportedly entered Building 17 of the Staten Island Developmental Center early this morning and forced the cafeteria manager to empty almost \$3,500 from the safe.

Police said the three entered the building at 5:45 a.m., approached cafeteria manager Moe Ismail and told him to empty the safe. Approximately eight persons who were in the cafeteria at the time were forced to lie on the floor.

The three escaped in an unknown direction with \$3,469.22 in a bank bag.

They were described as between five feet 10-inches and six feet tall. All were wearing stocking masks and carrying revolvers. No one was injured.