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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

SAM JOHNSON,

v.

JENNIFER SHAFFER, et al.,

Plaintiff,

Defendants.

2:12-cv-01059-KJM
ORDER GRANTING PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT
Courtroom: 3
Judge: The Hon. Kimberly J. Mueller
Action Filed: April 20, 2012

Plaintiffs in this action, Sam Johnson and a class consisting of California state prisoners who are serving life sentences and are eligible for parole consideration after having served their minimum terms, challenge the constitutionality of the protocol adopted by the Board of Parole Hearings (BPH) for the preparation of psychological risk assessment reports to be considered in determining prisoners' suitability for parole. Plaintiffs claim that they are entitled to declaratory and injunctive relief to address their claims. Defendants are the Executive Officer of the BPH and various other government officials and employees, all of whom are sued in their official capacity.

The parties have entered into a Stipulated Settlement that was filed with their Joint Motion for Preliminary Approval of Class Action Settlement, which would settle all claims in this case.

1 The parties have submitted a proposed Notice to the Class, and have agreed to a process regarding
2 the distribution of the order to the plaintiff class.

3 This court has presided over the proceedings in the above-captioned action and has
4 reviewed the pleadings, records, and papers on file. The court has reviewed the Joint Motion for
5 Preliminary Approval of Class Action Settlement, along with the Stipulated Settlement and
6 supporting documents, and has considered the parties' arguments concerning the proposed
7 settlement of this class action.

8 The court has determined that an inquiry should be made regarding the fairness and
9 adequacy of this proposed settlement.

10 Accordingly, good cause appearing, IT IS ORDERED AS FOLLOWS:

11 1. A court should preliminarily approve a class action settlement if it "appears to be
12 the product of serious, informed, non-collusive negotiations, has no obvious deficiencies, does
13 not improperly grant preferential treatment to class representatives or segments of the class, and
14 falls within the range of possible approval." *In re Tableware Antitrust Litig.*, 484 F. Supp. 2d
15 1078, 1079 (N.D. Cal. 2007). The court finds that this standard is met in this case, as the
16 proposed settlement is the product of arm's-length, serious, informed, and non-collusive
17 negotiations between experienced and knowledgeable counsel who have actively prosecuted and
18 defended this litigation. The court further finds that, for purposes of settlement only, the
19 Stipulated Settlement meets the requirements of 18 U.S.C. § 3626(a)(1). Except as provided in
20 paragraph 2 of this order, the Stipulated Settlement filed on September 10, 2015 is granted
21 preliminary approval and incorporated by reference herein, subject to the right of class members
22 to challenge the fairness, reasonableness, or adequacy of the Stipulated Settlement.

23 2. In accordance with the representations of counsel at the telephonic status
24 conference on October 1, 2015 and good cause appearing, paragraph 15 of the Stipulated
25 Settlement shall be removed therefrom. Defendants retain all rights provided under 18 U.S.C.
26 § 3626(b).

27 3. Under Federal Rule of Civil Procedure 23(e)(1), the court approves the substance,
28 form and manner of the Notice of Proposed Class Action Settlement (the "Notice") filed by the

1 parties on September 10, 2015, and finds that the proposed method of disseminating the Class
2 Notice meets all due process and other legal requirements and is the best notice practicable under
3 the circumstances.

4 4. Within three days of this Order, the parties are directed to prepare a final version
5 of the Stipulated Settlement removing paragraph 15, and a final version of the Notice
6 incorporating the dates set forth in this Order.

7 5. Within fourteen court days of this Order, defendants are directed to post the Notice
8 in English and Spanish in all housing units of all prisons housing prisoners who are serving life
9 sentences and are eligible for parole consideration after having served their minimum terms.
10 Defendants must file and serve on plaintiffs' counsel a declaration affirming that the Notice was
11 published as required in this order.

12 6. A Final Fairness Hearing shall take place at 10:00 a.m. on December 18, 2015 at
13 the United States District Court for the Eastern District of California, United States Courthouse,
14 501 I St., Sacramento CA 95814, in Courtroom 3, to determine whether the proposed settlement
15 of this action on the terms and conditions provided for in the Stipulated Settlement is fair,
16 reasonable, and adequate and should be finally approved by the court, and whether this action
17 should be dismissed under the settlement. The hearing may be continued from time to time
18 without further notice to the class. Any further briefing from the parties in advance of the hearing
19 shall be filed no later than December 4, 2015.

20 7. Any member of the class may enter an appearance on his or her own behalf in this
21 action through that class member's own attorney (at the member's own expense), but need not do
22 so. Class members who do not enter an appearance through their own attorneys will be
23 represented by Class counsel. Alternatively, any member of the class may write to the court
24 directly about whether the settlement is fair. The court will consider written communications
25 when deciding whether to approve the settlement. Comments regarding the fairness of the
26 settlement MUST include at the top of the first page the case name (*Johnson v. Shaffer, et al.*) and
27 the case number 2:12-CV-01059-KJM. A written comment must contain the author's full name
28 and CDCR number, must include all objections and the reasons for them, must include any and

1 all supporting papers (including, without limitation, all briefs, written evidence, and declarations),
2 and must be signed by the Class Member. A Class Member who desires to comment but who
3 fails to comply with the above objection procedure and timeline shall be deemed to have not
4 objected and the objection shall not be heard or considered at the hearing. Comments must be
5 postmarked by November 13, 2015 and must be sent to the following address:

6
7 Clerk of the Court
8 United States District Court
9 Eastern District of California
10 501 "T" Street
11 Sacramento, CA 95814

12 IT IS SO ORDERED.

13 DATED: October 6, 2015.

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UNITED STATES DISTRICT JUDGE