

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

PEOPLE FIRST OF TENNESSEE,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 3:95-1227
)	Judge Echols
CLOVER BOTTOM)	
DEVELOPMENTAL CENTER, et al.)	
)	(Cons. w/ 3:96-1056)
Defendants,)	

 ~~Proposed~~ ORDER GRANTING DEFENDANTS'
MOTION FOR PARTIAL TERMINATION OF THE SETTLEMENT
AGREEMENT AS TO HAROLD JORDAN CENTER

Before the Court is Defendants' Motion For Partial Termination of Settlement Agreement Or, In The Alternative, To Modify The Settlement Agreement Regarding Harold Jordan Center ("Motion To Terminate"). [See Dkt. No. 792]. In the Motion To Terminate, the State defendants submit that they have demonstrated the achievement and maintenance of substantial compliance with sections VI (Institution Care and Services) and VII (Protection From Harm) of the Settlement Agreement in regard to the Harold Jordan Center ("HJC").¹ Following the filing of the Motion To Terminate, the United States and People First conducted expert reviews of HJC. In its filing dated March 31, 2008, the United States announced that it does not oppose the State's motion for partial termination of the Settlement Agreement as to Harold Jordan Center in

¹ Defendants alternatively moved that a change in factual conditions warranted a modification of the Settlement Agreement regarding HJC. However, as all parties now agree that HJC has demonstrated the achievement and maintenance of substantial compliance with sections VI and VII of the Settlement Agreement, the Court FINDS that the issue of whether factual conditions warrant a modification of the Settlement Agreement is moot.

regard to sections VI and VII. [See United States' response, pp. 1-2 (Dkt. No. 845)].² PGA also filed a response in which it stated that it did not oppose the State's motion. [Dkt. No. 814 RLF 834]. People First, however, initially submitted a filing opposing the Motion to Vacate. [See Dkt. No. 834]. This matter is set for trial beginning on January 7, 2009.

Subsequent to the filing of People First's opposition memorandum, People First and the State exchanged expert reports in support of their respective positions. In addition, the State and People First engaged in settlement negotiations. Based upon the statements of counsel as evidenced by their electronic signature below, it now appears to the Court that People First and the State defendants have met and agreed that the Motion To Terminate should be granted based upon the agreed terms and conditions.

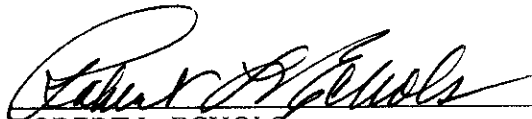
For good cause shown and as no party now opposes the pending motion, it is therefore ORDERED that Defendants' Motion To Terminate with respect to conditions at Harold Jordan Center is GRANTED on the basis that defendants have demonstrated the achievement and maintenance of substantial compliance with sections VI (Institution Care and Services) and VII (Protection From Harm) of the Settlement Agreement. In addition, while the Court retains jurisdiction of this matter, the following terms and conditions shall apply:

1. All class members residing at HJC on or before the entry of this Order shall remain class members and shall retain all their rights as class members pursuant to sections I, II, III, IV, V, VIII, IX, and X of the Settlement Agreement. Persons admitted to HJC after entry of this Order will not be eligible for class membership based solely upon placement at HJC;

² The United States did oppose State defendants' alternative argument that a change in factual conditions warranted a modification of the Settlement Agreement regarding HJC, but as explained in footnote 1, this issue is moot.

2. The State will maintain services to class members residing at HJC at a constitutional level as required by law;
3. Subject to the exercise of reasoned professional judgment and the requirements and restrictions of T.C.A. §§ 33-5-401, et seq., which apply to any person committed to HJC under T.C.A. §33-5-403 or transferred to HJC under T.C.A. §33-3-301, class members living at HJC shall be placed into active transition with the goal of transitioning from HJC to a community placement as soon as practicable;
4. For each class member resident at and/or transitioning from HJC, the state shall prepare a Clinical Risk Assessment for the purpose of assisting with active treatment planning for their ISP, transition planning and placement. While recognizing that class members transitioning from HJC have not been adjudicated guilty of the charges that caused them to be admitted to HJC, the Clinical Risk Assessment shall include an assessment of static and dynamic variables that impact the potential for risk and guide planning and programming for treatment at HJC and for community placement.
5. People First shall be permitted to continue an active chapter at HJC so long as there continues to be a desire by persons living at HJC to participate in the organization, which desire HJC staff will not discourage, and as long as that participation does not interfere with HJC's treatment and care of the residents of HJC consistent with their rights under the First Amendment.

IT IS SO ORDERED.


ROBERT L. ECHOLS
UNITED STATES DISTRICT COURT

Date: 9-29-08

APPROVED FOR ENTRY:

/s Jack W. Derryberry, Jr.
JACK W. DERRYBERRY, JR., #3870
Suite 1720 Parkway Towers
404 James Robertson Parkway
Nashville, Tennessee 37219
(615) 244-0554

Judith A. Gran
PUBLIC INTEREST LAW CENTER
OF PHILADELPHIA
125 S. 9th Street
Suite 700
Philadelphia, Pennsylvania 19107
(215) 627-7100 ext. 225

Earle J. Schwarz
THE OFFICES OF EARLE J.
SCHWARZ
2157 Madison Ave, Suite 201
Memphis TN 38104

ATTORNEYS FOR PEOPLE FIRST

/s Dianne Stamey Dycus
DIANNE STAMEY DYCUS, BPR #9654
Deputy Attorney General
GENERAL CIVIL DIVISION
OFFICE OF THE ATTORNEY GENERAL
Nashville, TN 37202
P.O. Box 20207
(615) 741-6420

Jonathan P. Lakey, BPR #16788
PIETRANGELO COOK PLC
6410 Poplar Avenue, Suite 190
Memphis, TN 38112
(901) 685-2662

ATTORNEYS FOR DEFENDANTS