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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 76-6086-CIV-HOEVELER

COPY

OLLIE CARRUTHERS, et al.,

Plaintiffs,

vs.

KEN JENNE, et al.,

e

Defendants.

STIPULATION FOR SETTLEMENT

This Stipulation for Settlement is entered into between the Class and Broward:

I. DEFINITIONS

As used herein:

1. "Class" shall mean all persons who have been, are being, or will be confined in the Broward County corrections and rehabilitation facilities, including any facilities that Broward County or the Sheriff of Broward County may in the future operate or contract with a private company to operate.

2. "Broward" shall mean the Office of the Broward County Sheriff, Ken Jenne, individually, and as Sheriff of Broward County, Florida, and any and all of his predecessors or successors in office, and any and all of his deputies, appointees, or employees, including, but not limited to, Harold Wilber, former Executive Director of the Department of Detention and Corrections, and James Wimberly, Director of the Department of Detention

and Corrections, and any and all of their predecessors or successors, and Broward County, Florida, and any and all of its Commissioners, including, but not limited to, Ilene Lieberman, Kristin D. Jacobs, Ben Graber, James A. Scott, Lori Nance Parrish, Sue N. Gunzburger, John E. Rodstrom, Jr., Diana Rubin-Wasserman, and Josephus Eggelton, Jr., and any and all of their predecessors or successors in office.

3. "Settling Parties" shall mean the Class and Broward.

II. PREAMBLE

That the Class and Broward, on July 27, 1994, entered into a Stipulation for Entry of Consent Decree, which Stipulation was ratified and confirmed by Order Approving Settlement Agreement and Dismissing Case entered on January 31, 1995, by the Honorable William Hoeveler, United States District Judge.

That Defendants' Joint Motion to Termination/Dismiss Consent Decree was filed on September 12, 1996, which Joint Motion was predicated upon the Prison Litigation Reform Act of 1995, 18 U.S.C. §3626, et. seq.

That the Court, pursuant to Stipulation of the Class and Broward, on November 20, 2001, and pursuant to Fed.R.E 702 appointed Steven Martin as an expert witness to conduct inquiry into whether the Broward County jail facilities are being operated in a manner consistent with the requirements of the United States Constitution and federal law.

Pursuant to that Order, Mr. Martin, with the retained assistance of Steven S. Spencer, M.D. and Jeffrey L. Metzner, M.D., (herein collectively "the experts") conducted initial on-site inspections of the various jail facilities operated by Broward during the period November and December, 2001, and February and March, 2002. Extensive documentation

relating to all aspects of jail operations were reviewed. A report was issued by Mr. Martin on May 19, 2002. Subsequent, a second series of on-site and document inspections were conducted by Mr. Martin, Dr. Spencer, and Dr. Metzner during January, 2003, at the conclusion of which a report was issued by Mr. Martin dated January 21, 2003, which included the report of Dr. Metzner, as supplemented by the report of Dr. Spencer, dated January 27, 2003.

III. COVENANTS OF SETTLING PARTIES

The settling parties, in order to avoid the cost and uncertainties of further litigation, have agreed to compromise and adjust the claims and controversies that exist or may exist between them, and therefore in consideration of the mutual provisions set forth herein and for other good and valuable consideration and intending to be legally bound hereby consent and agree as follows:

1. That the stipulations agreed to herein will have preclusive effect only within this litigation and that said stipulations will be inadmissible in any other matter.
2. That the parties stipulate to the dismissal of all claims identified in Steve Martin's reports except those relating to medical services, mental health services, inmate rules and discipline, inmate safety and security, staffing/training (limited to staffing), facility capacity, and inmate services/programs (limited to recreation and access to religious publications/services). The dismissed claims shall not be subject to continued monitoring, further inspection or judicial oversight.
3. With regard to staffing/training, facility capacity, recreation, and religious publications/services, the Defendants shall produce to Mr. Martin and to Plaintiffs' counsel

documentation demonstrating current and continuing compliance by Broward with the requirements and obligations imposed by the United States Constitution and federal law regarding conditions within the Broward County corrections and rehabilitation facilities. Mr. Martin shall conduct any further review he deems necessary, and shall document his findings, and recommendations if any, in the expert report described in Paragraph 5.

4. That the experts' reports dated May 15, 2002, and January 21, 2003, inclusive of the reports of Steven Martin, Esquire, Dr. Jeffrey Metzner, and Steven Spencer, M.D., shall be admitted, without objection.

5. That Steve Martin, with the assistance of Dr. Steven Spencer and/or Dr. Jeffrey L. Metzner if he deems it necessary, shall conduct such further on-site inspections and/or document review by November 30, 2003, or as soon as practicable thereafter, for the purpose of determining current and continuing compliance by Broward with the requirements and obligations imposed by the United States Constitution and federal law with respect to the remaining claims regarding conditions within the Broward County corrections and rehabilitation facilities. At the completion of such inspection a report, and recommendations if any, shall be prepared by Mr. Martin and submitted to the Court.

6. That, based upon the reports submitted, the Court shall determine, as a matter of law, whether the Broward County corrections and rehabilitation facilities are operated in a manner that is consistent with the requirements and obligations imposed by the United States Constitution and federal law. If the Court finds that Broward is entitled to the entry of a Final Order dismissing this action in its entirety, the Court shall enter such Order. In the event that the report prepared pursuant to Paragraph 5 above makes

recommendations for changes, the parties shall have the opportunity to request a hearing to present evidence as to whether the recommended changes are to be implemented or whether the recommended changes are necessary, at the conclusion of which the Court will issue the appropriate Order consistent with the requirements imposed by operation of the Prison Litigation Reform Act (PLRA), 18 U.S.C. § 3626 et seq.

7. That upon execution of this Stipulation for Settlement all prospective relief as that term is defined in the PLRA and the monitoring of conditions of confinement by Class counsel or the federal court liaison, regardless of whether contemplated by the original Consent Decree or other Order of this Court, or as modified by practice or acquiescence of Broward since that Stipulation for Consent Decree was executed and ratified, shall immediately cease except as provided in this Stipulation for Settlement. Until such time as a Final Order of Dismissal is entered, Class counsel shall continue to be permitted to visit each housing unit within the corrections and rehabilitation facilities operated by Broward once per month for the express purpose of inmate interviews within such housing areas, at dates and times to be mutually agreed between Class counsel and the applicable facility commander.

8. That the Sheriff agrees to establish the position of "ombudsperson" within the Department of Detention and Community Control, with the sworn equivalent for this position being at the level of captain. This "ombudsperson" shall perform various functions including identification of systemic problems as related to the inmate population and manage the investigation and review of inmate concerns and grievances, and to perform such other functions provided in the classification description as published. Inmates shall

have free telephone access to the “ombudsperson”. The “ombudsperson” shall be afforded staff, training and resources sufficient to accomplish the task of receiving, reviewing, and addressing inmate concerns and grievances. The calls and grievances received, and dispositions thereof, shall be documented and monthly reports shall be prepared sufficient to enable Class counsel to track by inmate and facility and categorize (abuse, medical, protection) the calls, concerns, grievances received by the “ombudsperson”, and the dispositions thereof. Until dismissal of this case, the ombudsperson’s log shall be furnished monthly to Chris Cloney via mail or email; the record kept shall be available to Class counsel at the Main Jail upon reasonable notice of not less than 72 hours; and prisoners will continue to have free telephone access to Chris Cloney who will refer all calls and inquiries to the ombudsperson.

9. That, except as provided in Paragraphs 7 and 8 above, and pending submission of the report as contemplated in Paragraphs 4 and 5 above, discovery and all other litigation related activities shall cease. However, Class counsel shall be permitted access to documents maintained by Broward relating to the remaining claims, which inspections shall not exceed two (2) in number prior to the visit of the experts as contemplated above, or be of a duration exceeding a total of eight (8) days. Such inspection shall be conducted at dates and times that are mutually agreed between the parties. Class counsel shall, to the extent feasible, submit a list of records to be reviewed at least seven (7) business days prior to the day that any on-site inspection is to begin.

10. That the experts shall be paid by Broward as previously ordered.

11. Broward agrees that the Class is entitled to an award of attorney's fees and costs. The amount of attorneys' fees and costs to be awarded to the Class remains in dispute. Upon entry of a Final Order of Dismissal under the terms of Paragraph 6 above, jurisdiction shall be retained for the specific and limited purpose of determination of attorneys' fees and litigation costs, to the extent not previously determined or compromised, upon proper application therefor.

DATED this _____ day of _____, 2004.

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