

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA**

**CASE NO. 76-6086-CIV-MIDDLEBROOKS**

<b>OLLIE CARRUTHERS, et. al.,</b>	)
	)
<b>Plaintiffs,</b>	)
	)
<b>v.</b>	)
	)
<b>SCOTT J. ISRAEL, as Sheriff of Broward County, Florida,</b>	)
	)
	)
<b>Defendant.</b>	)
	)

**JOINT MOTION FOR COURT ORDER PARTIALLY TERMINATING THE CONSENT  
DECREE**

**I. INTRODUCTION**

Scott Israel, the Sheriff of Broward County, Florida (the “Defendant”) and Ollie Carruthers, et. al., (the “Plaintiffs”) (collectively “the Settling Parties”), jointly move the Court for an Order, pursuant 18 U.S.C. §3626(b)(1)(B) and to the terms of the Settlement [Doc. 930-1] approved by this Court on December 1, 2016 [Doc. 982], terminating the Consent Decree as to the following areas of contention: Overcrowding, Excessive Use of Force, Inmate Violence, and Substantial Burdens Upon Religious Exercise.

**II. SETTLEMENT AGREEMENT**

Broward County<sup>1</sup>, and the Settling Parties to this conditions of confinement class action entered the Stipulation for Entry of Consent Decree on July 27, 1994 (the “Consent Decree”), which was then ratified and confirmed by Judge Hoeveler on January 31, 1995. On June 7, 1995, Judge Hoeveler issued an amended Order incorporating the settlement agreement of the Settling

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<sup>1</sup> Broward County was dismissed as a party to this action On October 17, 2016 pursuant to an order of this Court. See Doc. 957.

Parties.

In 2016, the Settling Parties engaged in ongoing negotiations to address Plaintiffs' concerns as to practices and conditions that Plaintiffs' contended posed an unreasonable risk of harm to prisoners at Broward County jails and to address jail population and operational capacity issues. The Settling Parties reached a Settlement Agreement ("the Settlement") on July 22, 2016 (Doc. 930-1), and sought preliminary approval of the settlement on July 28, 2016 (Doc. 929). The parties also sought approval of a class notice to apprise all members of the plaintiff class about the Settlement, and the process by which they could lodge objections to it. *Id.*

On September 6, 2016, the Court preliminarily approved the Settlement, finding that it was "fair adequate, and reasonable, and within the range of possible final approval under Fed. R. Civ. P. 23." Doc. 935 at 1. The Court also approved the Class Notice, set a schedule and process for class members to lodge objections, and set a fairness hearing for December 1, 2016 to consider the request for final approval of the Settlement. Doc 935 at 1-2. On December 1, 2016, the Court entered an order approving the class action settlement. Doc. 982.

### **III. SUMMARY OF SETTLEMENT TERMS**

The Settlement approved by the Court addresses Plaintiffs' contentions of overcrowding, excessive use of force, inmate violence, inadequate mental health care and facilities, and the imposition of substantial burdens upon religious exercise. It provides a process for evaluation of the jail conditions at issue by highly qualified and experienced experts jointly designated in the Settlement. Those experts are Michael A. Berg for overcrowding, excessive use of force, inmate violence, and substantial burdens upon religious exercise, and Kathryn Burns, M.D. for mental health.

Under the Settlement, Dr. Burns<sup>2</sup> and Mr. Berg are to submit their findings of fact to the

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<sup>2</sup> Per the stipulation of the parties, Dr. Burns shall submit her report on July 15, 2017, as

Court together with plans of action to remedy current and ongoing violations of federal rights, if any. These action plans shall be based on current conditions and operations at the Jail, and will update and replace the existing remedies in the Consent Decree. The Settlement also establishes a process and grounds for presenting objections to proposed corrective measures to the Court for resolution. The Settlement will result in the termination of the Consent Decree upon substantial compliance with any action plans the Court does enter. It provides a set timeline for compliance and the mechanism for dismissal of the case.

#### **IV. FINAL EXPERT REPORT OF MICHAEL A. BERG**

On March 7, 2017, Michael A. Berg completed his Final Expert Report regarding the following areas of contention in the Settlement: Overcrowding, Excessive Use of Force, Inmate Violence, and Substantial Burdens on Religious Exercise. Mr. Berg's report was based upon substantial document review, interviews with key members of Defendant's staff responsible for jail operations and policy, interviews with Plaintiffs' counsel, and two facility site visits. On March 10, 2017, Mr. Berg's Final Expert Report was filed in this case. Doc. 996-1.

In the Final Expert Report, Mr. Berg has made the following conclusion with respect to the areas of contention that he evaluated:

From my extensive and thorough study of the Carruthers litigation along with all of its provisions and vast supply of daily operational material from the Broward County Sheriff's Office, the Administration and the Correctional staff, I can unequivocally report that the aforesaid parties have achieved Substantial Compliance as to the requirements of the Settlement Agreement. Further, I find no areas of contention, as set forth, that constitute current and/or ongoing violations of constitutionally protected federal rights overall, and in particular, with regard to matters of overcrowding, excessive use of force, inmate violence and the imposition of substantial burdens upon religious exercise.

*See* Doc. 996-1 at 13.

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provided under the Agreement. *See* Doc. 930-1 at 4, ¶IV.17 (authorizing the parties to set the deadline for expert reports).

Mr. Berg further concluded that “The Broward County Sheriff’s Office has achieved and continues to maintain all of the provisions of the Court’s Orders in an exceptional and professional manner that exceeds the Court’s intended goal and minimum standards of constitutional law.” *See* Doc. 996-1 at 13.

**V. AGREEMENT OF THE SETTLING PARTIES**

The Settling Parties have reviewed the Final Expert Report of Michael A. Berg. After careful review and consideration of Mr. Berg’s findings in his report, the Settling Parties have no objections to the conclusions rendered therein.

Pursuant to 18 U.S.C. §3626(b)(1)(B), the parties in a civil action in which prospective relief has been ordered may agree to terminate or modify relief before such relief is otherwise terminated. Accordingly, based upon the findings detailed in the Final Expert Report of Michael A. Berg prepared in the accordance with the Settlement, the Settling Parties agree to terminate prospective relief provided in the Consent Decree in the areas of overcrowding, excessive use of force, inmate violence, and imposition of substantial burdens on religious exercise.

**CONCLUSION**

For the foregoing reasons, and pursuant to the terms of the Settlement [Doc. 930-1] and 18 U.S.C. §3626(b)(1)(B), the Settling Parties seek the entry of an order terminating the Consent Decree as to the following areas of contention: Overcrowding, excessive use of force, inmate violence, and imposition of substantial burdens upon religious exercise.

Dated: March 20, 2017

By: /s/ Terrence Lynch  
Terrence Lynch, Esq.  
Office of the General Counsel for  
the Broward County Sheriff  
2601 West Broward Blvd.  
Fort Lauderdale, FL 33312  
Terrence\_Lynch@sheriff.org

Attorney for Sheriff Israel

Nancy Abudu (signed with permission)

Nancy G. Abudu  
ACLU Foundation of Florida  
4500 Biscayne Blvd., Suite 340  
Miami, FL 33137  
Telephone: (786) 363-2700  
nabudu@aclufl.org  
Fla. Bar No. 111881

Christopher C. Cloney (signed with permission)

CLONEY & CLONEY, P.A.  
5505 North Atlantic Avenue, Suite 202  
Cocoa Beach, Florida 32931  
Telephone: (321) 631-3336  
ccc@cloney.com  
Fla. Bar No. 179595

Eric Balaban (signed with permission)

National Prison Project of the ACLU Foundation  
915 15th Street  
Seventh Floor  
Washington, D.C. 20005  
ebalaban@aclu.org

Attorneys for Plaintiff Class

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served by CM/ECF on March 20, 2017 on all counsel or parties of record on the Service List below

By: /s/ Terrence Lynch  
Terrence Lynch

Service List

Howard R. Messing, Esq.  
2200 South Ocean Lane, Apt. 2510  
Fort Lauderdale, FL 33316  
Electronic Service  
howardmessing@aol.com  
Court Appointed Special Master

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF  
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<b>SCOTT J. ISRAEL, as Sheriff of</b>	)
<b>Broward County, Florida,</b>	)
	)
	)
<b>Defendant.</b>	)
_____	)

**ORDER PARTIALLY TERMINATING THE CONSENT DECREE**

THIS CAUSE comes before the Court upon the joint motion of the Defendant, Scott J. Israel, as Sheriff of Broward County and the Plaintiffs to partially terminate the Consent Decree pursuant to the terms of the Settlement (Doc. 930-1), and pursuant to 18 U.S.C. §3626(b)(1)(B). Having reviewed the joint motion of the Sheriff and Plaintiffs and the Final Expert Report of Michael A. Berg,

IT IS ORDERED that the parties' joint motion is GRANTED.

IT IS FURTHER ORDERED that all prospective relief in the Consent Decree relating to overcrowding, excessive use of force, inmate violence, and substantial burdens on religious rights is hereby terminated.

The Court shall retain jurisdiction over this matter pursuant to the terms of the Settlement of the Parties.

DONE AND ORDERED in Chambers at West Palm Beach, Florida this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
DONALD M. MIDDLEBROOKS  
UNITED STATES DISTRICT JUDGE

Copies furnished to: Counsel of Record

## General Information

<b>Court</b>	United States District Court for the Southern District of Florida; United States District Court for the Southern District of Florida
<b>Federal Nature of Suit</b>	Prisoner Petitions - Civil Rights[550]
<b>Docket Number</b>	0:76-cv-06086
<b>Status</b>	CLOSED