

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

UNITED STATES OF AMERICA,

Plaintiff;

v.

TERRELL COUNTY, *et al.*,

Defendants.

No. 1:04-cv-76 (WLS)

JOINT MOTION FOR ENTRY OF THE MODIFIED REMEDIAL ORDER

Plaintiff United States and Defendants Terrell County, *et al.*, having entered into an agreement concerning the conditions of confinement at the Terrell County Jail, jointly move this Court to enter the Modified Remedial Order ("Modified Order"), attached as Exhibit A, as an Order of this Court. The Modified Order represents the Parties' joint proposed modification of the Remedial Order that this Court entered on December 21, 2007, and, if approved by this Court, resolves the United States' Motion for an Order To Hold Defendants in Civil Contempt, ECF No. 97.

The Modified Order removes substantive provisions of the Remedial Order that Defendants previously attained substantial compliance with, as well as provisions that have improved such that they are no longer a significant concern to the Parties. It retains provisions related to the three remaining areas of significant concern: (1) adequacy of staffing, (2) medical and mental health care, and (3) suicide prevention. The Modified Order also clarifies the Remedial Order's staffing

provision by ensuring that the Jail is operated and managed by no fewer than four qualified staff members per shift stationed within the internal security perimeter of the Jail. The Modified Order also includes a revised termination provision.

The Parties agree that the relief contained in the Modified Order is based upon and supported by this Court's findings in its September 30, 2006, and Remedial Orders, ECF Nos. 63, 82, & 82-2, and is narrowly drawn, extends no further than necessary to correct the violations of federal rights of prisoners at the Terrell County Jail, and is the least intrusive means necessary to correct those violations.

RESPECTFULLY SUBMITTED,

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CERTIFICATE OF JOINT CONSENT

I certify that the originally executed document contains the signatures of all filers indicated herein and therefore represents consent to the filing of this document.

Respectfully submitted,

s/ Samantha K. Trepel
Attorney for the United States

CERTIFICATE OF SERVICE

I hereby certify that on October 13, 2011, I electronically filed the Joint Motion for Modification of the Remedial Order with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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Attorney for Defendants Terrell
County, Georgia; Wilbur T. Gamble, Jr.,
Chairman, Terrell County Board of
Commissioners; and Larry Atherton, Sr.,
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Respectfully submitted,

s/ Samantha K. Trepel
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FOR THE MIDDLE DISTRICT OF GEORGIA
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UNITED STATES OF AMERICA,

Plaintiff;

v.

TERRELL COUNTY, *et al.*,

Defendants.

No. 1:04-cv-76 (WLS)

MODIFIED REMEDIAL ORDER

- A. This Modified Remedial Order (“Modified Order” or “Order”) is entered into between the United States and Terrell County, the members of the Terrell County Board of Commissioners in their official capacity, and the Terrell County Sheriff (collectively, “Defendants”). The Modified Order represents the parties’ joint proposed modification of the Remedial Order that this Court entered on December 21, 2007.
- B. On September 30, 2006, the Court granted the United States’ motion for summary judgment finding that there was no genuine issue of material fact concerning whether the conditions at the Terrell County Jail violated the Constitution. On December 21, 2007, the Court issued a Remedial Order setting forth measures Defendants were required to undertake to ensure constitutional conditions of confinement at the Terrell County Jail.
- C. Since the Court entered its Remedial Order, Defendants have made progress in remedying some of the conditions at the Terrell County Jail and, significantly, have built a new facility that meets minimum constitutional standards.
- D. In recognition of Defendants’ progress, and to facilitate the creation of constitutional conditions at the Terrell County Jail, the parties thus jointly move this Court to modify its Remedial Order as set forth in this proposed Order.
- E. The Effective Date of this Order shall be the date that the United States District Court for the Middle District of Georgia enters an order adopting this Order as a modification to this Court’s Remedial Order, dated December 21, 2007.
- F. By sixth months from the Effective Date of the Modified Order, Defendants shall achieve substantial compliance with the following substantive provisions contained in the Remedial Order:
 1. III.A.1
 2. III.A.2
 3. IV.A.16
 4. IV.A.17
 5. IV.A.18
 6. IV.A.19
 7. IV.B.21
 8. IV.B.22
 9. IV.B.23
 10. IV.B.24
 11. IV.B.25
 12. IV.B.26
 13. IV.B.27
 14. IV.B.28
 15. IV.C.29
 16. IV.C.30
 17. IV.C.31

- 18. IV.C.32
- 19. IV.D.33
- 20. IV.D.34
- 21. IV.D.35
- 22. IV.D.37
- 23. IV.E.39
- 24. IV.E.40
- 25. IV.E.41
- 26. IV.F.42
- 27. IV.F.43
- 28. IV.F.44
- 29. V.45
- 30. V.46
- 31. V.47
- 32. V.48
- 33. V.49
- 34. V.50
- 35. V.51
- 36. V.52
- 37. V.53
- 38. VIII.70
- 39. VIII.71
- 40. VIII.72
- 41. VIII.73

- G. The following text will replace the language contained in Paragraph III.A.1 of the Remedial Order:

Defendants shall ensure that the facility is operated and managed by adequate qualified staff. Defendants assert that 18 full-time jailers, one part time jailer, and a Jail Administrator is sufficient to staff the Jail. The Jail will be operated and managed by no fewer than four qualified staff members per shift stationed within the internal security perimeter of the Jail.

- H. The paragraphs listed in Sections F and/through G above shall collectively be referred to as the Retained Paragraphs.
- I. All parties stipulate to the dismissal of the remaining provisions contained in Parts III through IX of the Remedial Order.
- J. Consistent with the Prison Litigation Reform Act and federal law, the United States District Court for the Middle District of Georgia shall have continuing jurisdiction over enforcement of this Modified Order and the Remedial Order as modified by this Order until Defendants maintain substantial compliance with each and every term of the Modified Order for a period of six months, at which time both the Modified Order and Remedial Order shall terminate, and the case will be dismissed. Defendants shall submit

quarterly compliance reports to the United States, beginning January 1, 2012. The quarterly reports shall be filed 15 days after the termination of each three-month period thereafter until this Order is terminated. Each compliance report shall describe the actions Defendants have taken during the reporting period to implement this Order, and the Remedial Order as modified by this Order, and shall make specific reference to the provisions being implemented. With each compliance report, Defendants shall provide all supporting documentation evidencing compliance and actions taken during the reporting period. Within 30 days of receiving Defendants' compliance report, the United States shall provide written evaluation of Defendants' compliance. If the United States needs additional information to determine compliance, it will notify Defendants within 30 days and take necessary steps to obtain the information. In the event of a disagreement about compliance that the parties cannot resolve, either party may request a hearing with the Court. This paragraph modifies Paragraphs X.A.79 and X.A.80 of the Remedial Order.

- K. The modified prospective relief in this Order is based upon and supported by this Court's findings in its September 30, 2006, and Remedial Orders, and is narrowly drawn, extends no further than necessary to correct the violations of federal rights of prisoners at the Terrell County Jail, and is the least intrusive means necessary to correct those violations.

SO ORDERED this _____ day of _____, 2011.

HONORABLE W. LOUIS SANDS
United States District Judge