

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

THE GEORGIA PUBLIC DEFENDER)
STANDARDS COUNCIL, et al.,)
)
Plaintiffs,)
)
v.)
)
MYRON FREEMAN, in his capacity,)
as Sheriff of Fulton County, and)
Individually,)
)
Defendant.)

CIVIL ACTION FILE
NO. 1:05CV3286-MHS

CONSENT ORDER

Plaintiff Georgia Public Defender Standards Council ("GPDSC"), the Atlanta Circuit Public Defender Office, Metro Conflict Defenders (f/k/a Fulton County Conflict Defender, Inc.), Jeremiah Bates, and Mardonio Lopez (collectively, "the GPDSC Parties") and Defendant Myron Freeman, in his capacity as Sheriff of Fulton County, submit this Consent Order to resolve the issues of the transfer of inmates from the Fulton County Jail.

The Georgia Public Defender Standards Council is an independent agency within the judicial branch of the state of Georgia created by the Indigent Defense Act of 2003. (O.C.G.A. § 17-12-1 et seq.) The mission of the GPDSC is to ensure, independently of political considerations or private interests,

that each client whose case has been entrusted to a circuit public defender receives zealous, adequate, effective, timely, and ethical legal representation, consistent with the guarantees of the Constitution of the State of Georgia, the Constitution of the United States, and the mandates of the Georgia Indigent Defense Act of 2003. (See O.C.G.A. § 17-12-1(c)). GPDSC funds the Atlanta Circuit Public Defender Office and the Fulton County Conflict Defender Office. Those entities represent indigent defendants in criminal proceedings in Fulton County, Georgia.

Mardonio Lopez and Jeremiah Bates are pre-trial detainees who were transferred from the Fulton County Jail to jails in South Georgia without prior notice to them, their families or their lawyers. Mr. Lopez is represented by the Metro Conflict Defender and Mr. Bates by the Atlanta Circuit Public Defender.

Myron Freeman is the Sheriff of Fulton County, Georgia and is responsible for the custody of pretrial detainees charged with crimes in Fulton County and for the administration of the Fulton County jail.

On December 20, 2005, the GPDSC Parties filed this action in the Superior Court of Fulton County to prevent Sheriff Freeman from transferring inmates from the Fulton County Jail to distant locations. The case was then removed by Sheriff Freeman

to the United States District Court for the Northern District of Georgia, Atlanta Division.

Upon removal Sheriff Freeman filed a motion to consolidate this action with *Harper v. Bennett, et al*, No. 04-CV-1416-MHS (N.D. Ga. filed May 19, 2004). *Harper* is a class action lawsuit brought by inmates of the Fulton County Jail to address overcrowding and other alleged unconstitutional conditions in the County Jail. The GPDSC Parties filed a limited objection to the proposed Consent Order in the *Harper* case to the extent that the Order could be read as permitting the Sheriff to transfer inmates from the Fulton County Jail to distant locations. On February 3, 2006 the Court held a fairness hearing to consider the Consent Order in *Harper*. At that hearing, the Court orally denied Sheriff Freeman's motion to consolidate. The Court also considered GPDSC's objections, including the testimony of Sheriff Freeman. A copy of the civil minute sheet of the fairness hearing is attached as Exhibit "A."

Having considered the issues raised by this case in the *Harper* fairness hearing, including the testimony of Sheriff Freeman, and, by consent of the parties, the Court orders as follows:

1.

If the jail population of the Fulton County Jail exceeds the number permitted by paragraphs 36 and 38 of the *Harper* Consent Order and other remedial measures have failed to reduce that jail population, including, but not limited to, transferring sentenced inmates to other facilities, then pre-trial detainees may be transferred from the Fulton County Jail to other suitable detention facilities, provided that such other facilities must be located in a county adjoining Fulton County or a county not in excess of fifty miles from the Fulton County Jail. Nothing in this Consent Order prohibits the Sheriff from transferring sentenced inmates from the Fulton County Jail to more distant facilities.

2.

The Sheriff must notify a pre-trial detainee's lawyer of a transfer to or from the Fulton County Jail in advance of the transfer if reasonably possible under the circumstances, but in no event more than two days after the date of transfer.

3.

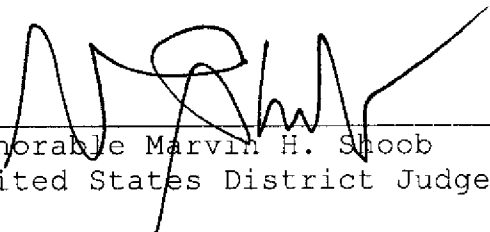
This Consent Order shall remain in full force and effect during the term of the *Harper* Consent Order, including during the renovations of the Fulton County Jail as required by the *Harper* Consent Order. However, the Court will consider a

request for temporary extraordinary relief if during the course of those renovations the Sheriff can demonstrate that there is no suitable bed space in counties adjoining Fulton County or in counties within fifty miles of the Fulton County Jail to accommodate pre-trial detainees displaced by the renovations after all sentenced inmates have been transferred to more distant locations.

4.

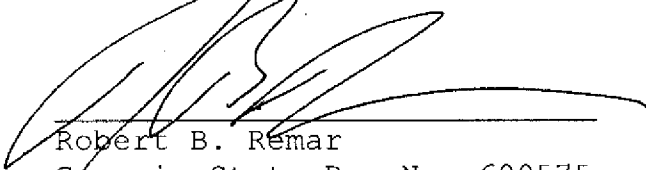
Each side will bear their own attorneys' fees, costs, and expenses of litigation.

SO ORDERED, this 27 day of Feb 2006.



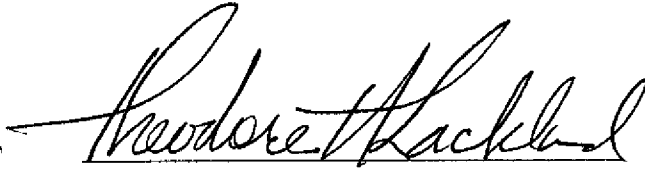
Honorable Marvin H. Shoob
United States District Judge

CONSENTED TO BY:



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