

ORIGINAL

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

DEC 10 2013 *mw*
at 6 o'clock and 00 min. P M.
SUE BEITIA, CLERK

UNITED STATES OF AMERICA,)	Civil Action No. (08-00585)
)	
Plaintiff,)	ORDER ENTERING CORRECTIVE
)	ACTION PLAN AS ORDER OF
v.)	THE COURT AND
)	MODIFICATION OF RULE
STATE OF HAWAII, et. al.,)	41(A)(1) SETTLEMENT
)	AGREEMENT
Defendants.)	
)	

ORDER ENTERING CORRECTIVE ACTION PLAN AS ORDER OF THE
COURT AND APPOINTING MONITOR
AND MODIFICATION OF RULE 41(a)(1) SETTLEMENT AGREEMENT

For good cause shown, the Court hereby GRANTS the Parties' Joint Motion for Modification of the December 29, 2008 Rule 41(a)(1) Settlement Agreement.

Accordingly, the Court ORDERS that:

- 1) This matter is removed from the Court's inactive docket and placed on its active docket;
- 2) The Corrective Action Plan attached to the Parties' Submission of Corrective Action Plan is hereby entered as an Order of the Court, and is the operative remedial agreement in this matter;

3) Defendants shall comply with all terms of the Corrective Action Plan by June 30, 2014, upon which date the case will be dismissed if compliance is achieved.

4) If compliance is not anticipated to be achieved by June 1, 2014, at least 30 days prior to that date, the Parties will meet and confer to seek appropriate measures and timetables to bring Defendants into compliance with the Court orders. Such measures and timetables shall be submitted to the Court for its approval.

5) Section IV ¶¶ 44-52 (concerning the Monitor) of the December 29, 2008, Settlement Agreement are dismissed;

6) Section V (Termination) of the December 29, 2008, Settlement Agreement is dismissed;

7) Further, Mr. Lindsay Hayes is accepted by the Court as the Monitor to the parties. His costs will be borne by the State. In his role as Monitor, Mr. Hayes shall:

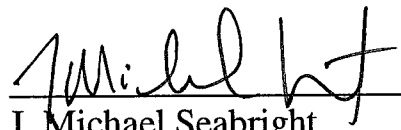
- a. Serve as the liaison between OCCG, the State, and the DOJ regarding compliance with the Corrective Action Plan. The Monitor's exclusive duties are to oversee and promote implementation of the provisions of the Corrective Action Plan.
- b. Specifically, the Monitor's duties shall include, but not be limited to:

- i. Monitoring and facilitating the State's compliance with each of the provisions in this Corrective Action Plan;
 - ii. Reporting to the Parties every thirty (30) days regarding compliance with each provision of the Corrective Action Plan in preparation for the Parties' periodic conference calls;
 - iii. Facilitating meetings between the parties on a regular and periodic basis to update the Parties regarding compliance with the Corrective Action Plan, including areas of improvement and areas of concern; and,
 - iv. Providing to the Parties any relevant information known, or available to the Monitor, under any provision of the Corrective Action Plan upon reasonable request.
- c. The Monitor shall be permitted to initiate and receive ex parte communications with the parties regarding any matter related to this Corrective Action Plan.
- d. The Monitor shall have full and complete access to the OCCC facilities, records, staff, and detainees. The State shall direct all employees to cooperate fully with the Monitor. All non-public information obtained by the Monitor shall be maintained in a confidential manner.

e. In order that this matter is dismissed as soon as appropriate, the Parties, in consultation with Mr. Hayes shall, in a timely and periodic manner, assess the State's and OCCC's compliance with the requirements of the Corrective Action Plan and with constitutional requirements; and

8) All other provisions of the Settlement Agreement not in conflict with the terms of the Corrective Action Plan or previously dismissed are continued.

DATED: December 10, 2013.



J. Michael Seabright
United States District Judge