

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DAN DURAN, et al.,

Plaintiffs,

v.

THOMAS DART, Sheriff of Cook County, et al.,

Defendants.

No. 74 C 2949

Judge Virginia Kendall

GARY HARRINGTON, et al.,

Plaintiffs,

v.

THOMAS DART, Sheriff of Cook County, et al.

Defendants.

No. 74 C 3290

Judge Virginia Kendall

**DEFENDANTS' JOINT RESPONSE TO PLAINTIFFS' MEMORANDUM IN SUPPORT
OF THE PROPOSED VOLUNTARY DISMISSAL OF THESE CASES AND REPLY TO
THE RESPONSES OF PLAINTIFF CLASS MEMBERS**

The Sheriff of Cook County is pleased to have the support of the Plaintiffs' lawyers in seeking the voluntary dismissal of both *Duran* and *Harrington* as fair, reasonable, and adequate pursuant to Fed. R. Civ. P. 23(e). Pursuant to the order entered by this Court, a Notice which was agreed to by Plaintiffs' counsel and approved by this Court was posted in the living areas of the Cook County Jail for more than the 30 days specified in the Court's order. During that period of time, copies of the Agreed Order which was entered in the case of *United States of America v. Cook County, et al.*, Case No. 10 C 2946, were also made available to inmate class members in division law libraries and in some cases in the living units.

The average population of the Cook County Jail during the time the Notice was posted and during the time for making objections was approximately 9,000 persons per day. Despite the fact that Notice was posted continually for more than six weeks to a population of approximately 9,000 people, Plaintiffs report only 68 individuals responded to the Notice. Of the 68 individuals who responded, only 16 individuals objected to the dismissal as pointed out on Page 3 of the Plaintiffs' Memorandum relating to the Motion to Dismiss. Of the 16 individuals who made objections, at least five individuals failed to offer any specific reason for their objections. Again, as pointed out by the Plaintiffs' attorneys in their Memorandum, of the remaining 11 objectors, the level of detail to the objections varied widely. Concerns raised by objectors have been or are being reviewed and addressed.

At Page 8 of Plaintiffs' Memorandum it is stated:

Defendants would almost certainly dispute the basic import of the responders' objections, which is that conditions at the Jail have, on balance, *deteriorated* as a result of the two cases. On the other hand, defendants are in no position to dispute that 'living conditions [at the Jail]... [remain] less than adequate . . .'

For the record, Defendants emphatically reject the basic import of the Responders' objections and furthermore deny that Defendants are in no position to dispute that living conditions at the Jail remain less than adequate. Contrary to Plaintiffs' assertions, the Defendants deny that living conditions at the Jail are inadequate. Corrections, medical and environmental monitors, along with attorneys from the Department of Justice have toured the Jail for several weeks in the last 15 months and there has been no report by any of those individuals who are charged with monitoring conditions at the Jail that the living conditions were less than adequate.

Again, the Plaintiffs' attorney speculates and attempts to speak for the Defendants at Page 10 where he indicates in a convoluted and superfluous construction that Defendants agree that conditions remain constitutionally inadequate. Again, nothing could be further from the truth.

The Defendants argue that an Agreed Order was entered in *USA v. Cook County* which subsumed the orders in both *Duran* and *Harrington*. The Defendants are making great strides in achieving substantial compliance with the Agreed Order entered in 2010. Since the Agreed Order in *USA v. Cook County* goes far beyond what was required in either *Duran* or *Harrington*, and since there are monitors appointed by this Court who report regularly to this Court, the continued duration of the consent decree in *Duran* and Agreed Order in *Harrington* is not warranted and voluntary dismissal should be entered as previously agreed by Plaintiffs' attorneys in open court on June 8, 2011.

Respectfully submitted,

Thomas J. Dart,
Sheriff of Cook County

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