

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

LOUIS HAMILTON, ET AL.	*	CIVIL ACTION
	*	
VERSUS	*	NUMBER: 69-2443 & con. cases
	*	
ERNEST N. MORIAL, ET AL.	*	SECTION: "LLM" (5)
	*	

STIPULATION REGARDING PHASE IV COMPLAINT

Plaintiffs and defendants Sheriff Charles C. Foti; Mayor Mark Morial; Governor Edwin Edwards; Rose Forrest, Secretary of the Louisiana Department of Health and Hospitals; and Richard Stalder, Secretary of the Louisiana Department of Public Safety and Corrections, appearing through their undersigned counsel, hereby stipulate and agree to the following with regard to the Partial Amended Complaint filed herein by plaintiffs pursuant to authority of this Court's Minute Entry of April 20, 1995 (the "Phase IV Complaint").

The Phase IV Complaint raises allegations under the First, Fourth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution, seeking declaratory and injunctive relief. In particular, it raises allegations in Paragraphs 45 through 51 concerning physical plant and environmental conditions at facilities located on South White Street, on Rendon Street, and in portions of the Templeman and House of Detention facilities (the "Physical Plant" allegations); allegations in Paragraphs 52 through 56 of sexual misconduct ("Sexual Misconduct"); allegations in Paragraphs 57 through 61 of lack of privacy ("Privacy"); allegations in Paragraphs 62 through 70 of denial of legal access ("Legal Access"); and allegations in Paragraphs 71 through 73 of inadequate visitation ("Visitation").

Hamilton v. Morial



JC-LA-003-015

It is the purpose of this Stipulation to provide an orderly, expeditious and economical method to resolve all allegations and claims raised by the Phase IV Complaint. The defendants categorically deny all the allegations contained in the Phase IV Complaint. However, in order to bring an end to this litigation and the substantial expenditures of time and resources associated therewith, defendants agree to the following as a settlement of litigation on issues relating to Sexual Misconduct and Privacy without a trial. The plaintiffs share this desire. As a consequence, the parties now agree to currently forego trial on the merits of the Sexual Misconduct and Privacy allegations as set forth in Paragraphs 52 through 61 of the Phase IV Complaint, and to bring this portion of this phase of the litigation to a conclusion by submitting this Stipulation to the Court for its review and ultimate approval. None of the issues in the Phase IV Complaint relative to either Legal Access or Visitation are intended to be resolved or otherwise affected by this Stipulation. The current trial date for these issues of August 14, 1995 is hereby continued; these matters shall be reset for trial commencing November 13, 1995. The physical plant issues shall be resolved separately through other orders of the Court. Nothing herein constitutes an admission by any party (plaintiffs or defendants) that any other party is a "prevailing party" under 42 U.S.C. §1988 in connection with any allegation of the Phase IV Complaint by virtue of this Stipulation. To the contrary, all parties reserve the right to oppose any party's application under 42 U.S.C. §1988 for fees, costs or other expenses and also to submit their own applications to the Court for payment of their own fees, costs and other allowable expenses.

By August 23, 1995, the Sheriff will submit to the Court (with copies to all other parties) his existing policies on Sexual Misconduct together with any modifications thereto or additional policies concerning Sexual Misconduct which he has already considered adopting or is willing to consider adopting. The proposal submitted will contain provisions which adequately assure the Court that any deputy found in violation of the Sexual Misconduct policy shall be subject to the jurisdiction and contempt power of the Court in addition to any other available departmental, civil or criminal remedies. The Sheriff's proposal shall also address those provisions which he deems appropriate with respect to the Court and/or plaintiffs' counsel monitoring compliance with the Sexual Misconduct policy. The Court shall allow all other parties an opportunity to review such present and proposed policies and provide their written comments to the Court by August 31, 1995, together with any different or additional policies or monitoring procedures they believe appropriate. If the parties can agree to the contents of a policy and to monitoring procedures they will submit it to the Court for its approval. In the event the parties cannot agree on the contents of a policy and/or on monitoring procedures, the Court will schedule a status conference with all parties to attempt to resolve any remaining disagreements. If the parties still cannot agree, the Court will formulate a policy and/or monitoring procedures. The parties shall in good faith consider accepting the Court's policy. However if the Sheriff or any other defendants or plaintiffs object to any portion of the Court's policy, such party shall have the right, within a time fixed by the Court, to file its written objections as to any factual, legal or other matters that cannot be resolved (including, but not by way of limitation, the constitutional necessity of any such policies) and request and obtain an evidentiary hearing to present evidence (including expert testimony if appropriate) to the Court on such matters. This hearing will be

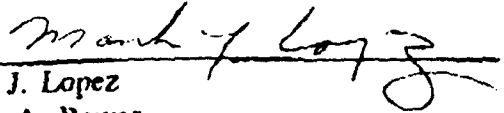
In the nature of a trial from which an appeal may be taken.

The issue of Privacy will be resolved after an on-site inspection of facilities of the Orleans Parish Prison system housing, holding or transporting female inmates by the Magistrate Judge, on a date to be determined by the Magistrate Judge. Each party may designate a representative to accompany the Magistrate Judge in this inspection. Following such inspection, the Magistrate shall inform the parties of the manner, if any, in which she believes that the Sheriff's policies or facilities do not meet constitutional rights to privacy. The Magistrate Judge shall also fix a time in which all parties may present their written objections to her findings. If there is no disagreement between the parties as to the Magistrate Judge's recommendations, the parties shall jointly move the Court to adopt such recommendations as an order of the Court. If the Sheriff or any other defendants or plaintiffs object to any portion of the Court's policy, such party shall have the right, within a time fixed by the Court to file its written objections as to any factual, legal or other matters that cannot be resolved (including, but not by way of limitation, the constitutional necessity of any such policies) and request and obtain an evidentiary hearing to present additional evidence (including expert testimony if appropriate) to the Court on such matters. This hearing will be in the nature of a trial from which an appeal may be taken.


Except by order of the Court, no further discovery of any kind shall be conducted or initiated by plaintiffs or defendants on any issues raised by the Phase IV Complaint other than Legal Access and Visitation. Discovery responses related to the Legal Access and Visitation allegations shall be produced by August 18, 1995.

Respectfully submitted,

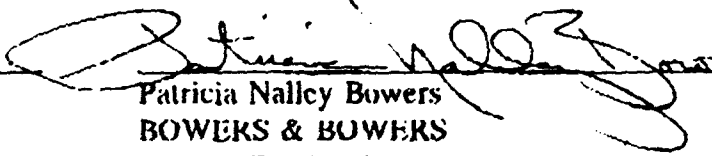
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 GOV. EDWIN EDWARDS

Dated: August 10, 1995