

**FILED**

SEP 12 2007

DAVID CREWS, CLERK  
By *[Signature]*  
Deputy

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
SUNFLOWER COUNTY, MISSISSIPPI, et al.)  
 )  
 )  
Defendants. )

No. 4:95cv122-B-O

SECOND STIPULATION AMENDING CONSENT ORDER

**I. Introduction**

This action was brought by the United States of America ("the United States") pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997, to rectify conditions of confinement that allegedly violated the constitutional and federal statutory rights of inmates housed in Sunflower County Jail ("Sunflower Jail"). A Consent Order to remedy unconstitutional conditions at the Sunflower Jail was approved by this Court on April 24, 1995. Subsequent compliance tours of the Sunflower Jail by the United States and its expert consultants identified certain remedial measures necessary to bring Sunflower County, Mississippi's Board of Supervisors, Sheriff, their agents and successors in office (collectively "Sunflower County" or the "Defendants") into compliance with the

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Consent Order. This resulted in a Stipulation Amending Consent Order approved and entered as an order of this Court on March 10, 2003. Officials associated with Sunflower Jail have worked with the United States regarding compliance with the provisions of the Consent Order and the Stipulation Amending Consent Order.

Subsequent compliance tours by the United States have made it clear that the Defendants are not, as of now, in compliance with the provisions of the Consent Order and the Stipulation Amending Consent Order. In the interest of expediting a mutually satisfactory resolution of this litigation, the United States and the Defendants stipulate and agree that the Consent Order filed April 24, 1995, shall be further amended as follows, with the understanding that Sunflower County shall implement this Second Stipulation Amending Consent Order ("Second Stipulation") within six months of filing unless otherwise specified:

## **II. Policies and Procedures**

1. Defendants shall develop and implement reasonable policies and procedures tailored to the operation of the Sunflower Jail that are in accordance with generally accepted professional standards of care. These policies and procedures shall include all areas described in the 1995 Consent Order and this Second Stipulation. In addition, the Defendants shall develop and implement policies and procedures regarding the use of force, restraint, and pepper spray.

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2. Defendants agree that the Sheriff and his staff will train and supervise the staff of the Sunflower Jail and operate said facility in accordance with constitutional standards, including the policies and procedures described in this Second Stipulation.

### **III. Classification**

1. Sunflower Jail shall provide the United States with a schedule for implementing a revised classification system immediately following the training of the Jail Administrator (see below), and any anticipated changes to the revised system. Such plan and its implementation shall be subject to approval by the United States. At a minimum, Sunflower County shall provide for the implementation of the new classification system within six months from the execution of this Stipulation.

2. Sunflower Jail shall adopt an objective classification system in order to meet current professionally accepted standards. The objective classification system shall provide for the implementation of procedures for assigning vulnerable, assaultive or special management detainees and inmates to appropriate secure housing which shall include a number of single-occupancy cells.

3. The Jail Administrator shall successfully complete the National Institute of Corrections' classification course. Similar training shall be required of all future Jail

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Administrators. After successfully completing the course, the Jail Administrator shall train all other Sunflower Jail staff.

**IV. Fire Safety**

1. Defendants shall ensure that the fire and smoke alarm detection system is operational. This system shall provide ongoing fire monitoring and protection through an independent firm. A copy of the ongoing contract for such services shall be available to the United States and its expert consultants upon request.
2. Defendants shall provide for an adequate smoke control evacuation system for all sleeping areas within the Sunflower Jail.
3. Defendants will ensure that the exit doors of the Sunflower Jail are maintained so as to provide adequate egress in case of emergency.
4. Defendants will ensure the use of keys which are color coded, notched, and otherwise readily identifiable during emergencies, so as to assist in swift evacuation in case of emergency.
5. Defendants shall ensure that the remote electronic locking system is operational.
6. Defendants shall ensure that all fire extinguishers are operational. All fire extinguishers will be inspected monthly and serviced annually and when discharged will be removed

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and replaced after recharging. A manual fire extinguisher will be installed in the laundry room.

7. Defendants shall ensure that the emergency generator is operational. Defendants shall provide ongoing monitoring of the system through an outside, independent professional firm. A copy of the contract for such services shall be available to the United States and its expert consultants upon request.

8. Defendants shall ensure that the staff of the Sunflower Jail receive adequate training in areas of emergency evacuation procedures and the operation of fire safety equipment.

**V. Medical and Mental Health Services**

1. Sunflower Jail shall develop and implement reasonable policies and procedures related to medical and mental health services that are in accordance with generally accepted standards of correctional health care. Sunflower Jail shall ensure continuation of prescription medications within 24 hours of intake and shall comply with current standards to screen inmates for infectious disease. Sunflower shall promptly implement the approved policies and procedures.

2. Sunflower Jail shall provide mental health evaluations for all inmates whose histories or whose responses to initial screening questions indicate a need for such an evaluation;

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develop a contractual relationship with the local mental health provider; and provide timely and appropriate referrals for specialty care.

3. Sunflower Jail shall have a medical records professional review and revise their current medical records management system. Sunflower Jail's contract medical professionals shall be involved in this review. Sunflower Jail shall use current forms regarding potential suicide risks and ensure that medical personnel place them in the inmates' medical files.

4. The Facility Physician and the Nurse shall be responsible for managing the medication delivery system, including but not limited to, creating the system, training jail staff on procedure, and ongoing monitoring. The Facility Physician and the Jail Administrator shall explore the feasibility and practicality of implementing an Inmates Self-Medication Program, a/k/a "Keep-on-Person" Program. Eligible inmates for this program include inmates on short term therapy for antibiotics, inmates needing medications for chronic problems such as diabetes, and inhalers for people who have asthma.

5. Sunflower Jail shall ensure that the Facility Physician reviews medications every 30 days and maintains a flow sheet for each visit.

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6. Sunflower Jail shall ensure that sick call request forms are reviewed by qualified medical staff within 24 to 48 hours from time of submission or 72 hours if requested over a weekend (and if a non-emergency).

7. Sunflower Jail shall ensure that all staff receive annual training on suicide prevention.

8. Sunflower Jail staff shall comply with current standards to screen inmates for infectious disease including tuberculosis ("TB") and methicillin resistant staph aureus ("MRSA"). Defendants shall promptly implement the approved policies and procedures.

9. Defendants shall develop detailed job descriptions for the Facility Physician and the Nurse who shall be responsible for the management and delivery of medical care in accordance with generally accepted standards of correctional health care within the Sunflower Jail. Such job descriptions shall include, but not be limited to, medical and mental health care provisions contained in the 1995 Consent Order and this Second Stipulation.

**VI. Stipulation Pursuant to the Prison Litigation Reform Act, 18 U.S.C. § 3626**

1. The United States and Sunflower County stipulate that this Second Stipulation complies in all respects with the provisions of 18 U.S.C. § 3626(a). For purposes of this lawsuit only and in order to settle this matter, the Defendants stipulate that they have violated the federal rights of inmates as alleged

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above. The parties further stipulate and agree that the prospective relief in this Second Stipulation is narrowly drawn, extends no further than necessary to correct the violations of federal rights set forth in the Complaint, is the least intrusive means necessary to correct these violations, and will not have an adverse impact on public safety or the operation of a criminal justice system. Accordingly, the parties agree and represent to the Court that the Second Stipulation complies in all respects with the provisions of 18 U.S.C. § 3626(a), and may serve as the factual and legal basis for a court order issued pursuant to those provisions. The parties agree this Second Stipulation is not an admission of liability regarding any other litigation.

2. The issue of liability has not been litigated. The parties ask the Court to approve this Second Stipulation, without a full hearing on the merits, on the basis of the stipulation above in Section V, Paragraph 1.

#### **VII. Construction and Termination**

1. This Second Stipulation is not intended to have any preclusive effect except between the parties. Nothing herein is intended to, or shall be construed to become an admission, to create or serve as an independent basis for any standing, cause of action, claim, grievance, or other right in or for any entity other than Plaintiff and Defendants.



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2. This Second Stipulation shall be submitted to the United States District Court for the Northern District of Mississippi and shall, upon approval, become enforceable as an order of the Court. This Second Stipulation, upon approval, shall supercede the provisions of the Stipulation Amending Consent Order approved by this Court on March 10, 2003 which shall no longer be in force and effect. The provisions of this Second Stipulation should not conflict with the Consent Order approved by this Court on April 24, 1995, but to the extent that a conflict exists between the Second Stipulation and the Consent Order, the provisions of the Second Stipulation shall govern. All provisions of the Consent Order approved by this Court on April 24, 1995 that do not conflict with this Second Stipulation shall remain in full force and effect.

3. This Second Stipulation and the 1995 Consent Order shall terminate three years after the entry by this Court of the Second Stipulation as an order of the court. Both orders may terminate prior to the conclusion of the three-year period, if the Defendants come into compliance with the provisions of the court orders and maintain such compliance for at least one year. Defendants shall have the burden to demonstrate compliance.

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FOR THE UNITED STATES:

Date: August 22, 2007

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United States Attorney  
Northern District of Mississippi

WAN J. KIM  
Assistant Attorney General  
Civil Rights Division

Shanetta Y. Cutlar  
Chief  
Special Litigation Section



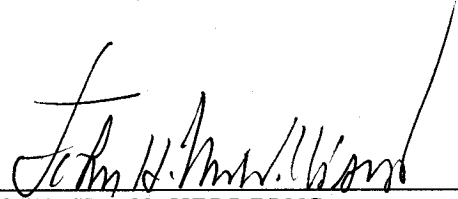
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FOR THE DEFENDANTS - SUNFLOWER COUNTY

Date: April 25, 2007



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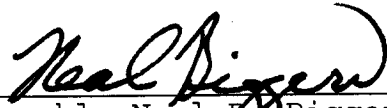
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**WHEREFORE,** the provisions of the foregoing Stipulation, having been agreed to by the parties to this action, are hereby approved and entered as an Order of this Court.

APPROVED AND SO ORDERED this 12<sup>th</sup> day of Sept., 2007.



Honorable Neal E. Biggers  
United States District Court  
Northern District of Mississippi  
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