



JI-CO-001-003

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~~FILED~~
U.S. DISTRICT COURT
DENVER, COLO.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

~~MAY 28 1995~~ 89

Civil Action No. 94-N-2816

E. R., a minor, by and through his Next Friend, L. R.; and A. W., a minor, by and through her Next Friend, J. W.; on behalf of themselves and all others similarly situated;

Plaintiffs,

FILED
UNITED STATES DISTRICT COURT
DENVER, COLO.

MAY 29 1995

v.

BARBARA McDONNELL, Executive Director of the Department of Human Services for the State of Colorado; F. JERALD ADAMEK, Director of the Division of Youth Services, Department of Human Services for the State of Colorado; VELVIA GARNER, Director of the Phillip B. Gilliam Youth Services Center; all in their official capacity; and SCHOOL DISTRICT NO. 1, COUNTY OF DENVER, STATE OF COLORADO,

Defendants.

MEMORANDUM OF AGREEMENT TO AMEND
SETTLEMENT AGREEMENT
AND ORDER

INTRODUCTION

This Memorandum of Agreement to Amend Settlement Agreement further states the terms and provisions which resolve the issues raised in the above captioned lawsuit. For, and in consideration of, the same premises stated therein, the parties additionally agree as follows:

1. Currently pending before Congress is H.R. 667, Title III "Stop Turning Out Prisoners Act" ("STOP" or S. 400). In part, this proposed legislation would affect the settlement of lawsuits concerning prospective relief in prison conditions litigation.

2. The parties acknowledge that during the settlement of the within litigation Congress is considering different versions of STOP, and the parties do not know whether, or

in what form, STOP may be enacted into law, or limit or affect the settlement of this action.

3. Having duly considered the possible affects of STOP, such as it is currently being considered and as it has been proposed to be amended, the parties agree that in the event STOP or such similar legislation is enacted, then, to the extent such law limits or affects the settlement of this action, the parties agree to amend paragraphs 2 and 56 of the Settlement Agreement herein as set out below.

4. Paragraph 2 of the Settlement Agreement will be replaced with the following:

The parties enter into this Settlement Agreement in order to remedy deprivations of plaintiffs' federal rights. The terms of this Settlement Agreement extend no further than necessary to remedy the conditions at Gilliam that allegedly caused the deprivation of constitutional and statutory rights of the plaintiffs, and are the least intrusive means to remedy any violation of federal rights. The parties agree that the terms of this Settlement Agreement will not have an adverse impact on public safety or the operation of the criminal justice system. The parties also agree that the terms of this Settlement Agreement are necessary and that no other relief will remedy the deprivation of federal rights.

5. Paragraph 56 of the Settlement Agreement will be replaced with the following:

No statements contained in this Settlement Agreement may be used as evidence of any liability, omission or wrongdoing in any judicial, administrative or other legal proceeding of any kind, other than an action by plaintiffs to enforce this Settlement Agreement.

6. A new paragraph, numbered 58, will be added to the Settlement Agreement as follows:

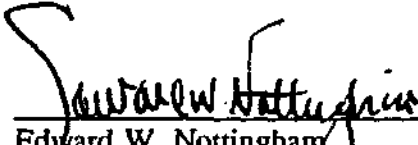
The parties request that the Court enter a finding as set out below (or, in the event that the language of currently proposed H.R. 667 (S. 400) is amended, or any similar federal legislation is enacted which mandates a judicial finding of a violation of federal rights to satisfy requirements in the making of a settlement of the kind previously made in this lawsuit, then, the Court shall make a finding in a form sufficient to meet that requirement):

FINDING OF VIOLATION OF FEDERAL RIGHTS

The Court finds that plaintiffs' federal rights have been violated, and that the terms of this Settlement Agreement are narrowly drawn and the least intrusive means to remedy the violation of federal rights. With respect to the terms of this Settlement Agreement calling for reduction or limitation of population at Gilliam, the Court finds that crowding is the primary cause of the deprivation of the federal right, and no other relief shall remedy that deprivation.

THE TERMS OF THIS SETTLEMENT AGREEMENT ARE APPROVED BY THE COURT, AND THE PARTIES ARE HEREBY ORDERED TO PERFORM AND COMPLY WITH THE TERMS STATED HEREIN:


MADE AN ORDER OF COURT AND ENTERED this 29 day of May, 1995.



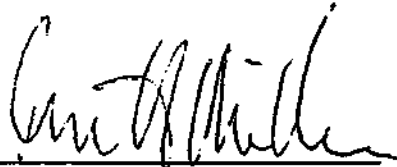
Edward W. Nottingham
UNITED STATES DISTRICT JUDGE

Dated this 25th day of May, 1995.

For the Plaintiffs:



Barbara McDonnell
Executive Director
Colorado Department of Human Services
1575 Sherman Street
Denver, CO 80203
(303) 866-5800



David H. Miller
Legal Director
AMERICAN CIVIL LIBERTIES UNION
OF COLORADO
400 Corona Street
Denver, CO 80218
(303) 777-5482



F. Jerald Adamek
Director of Division of Youth Services
4255 S. Knox Court
Denver, CO 80236
(303) 762-4493

Susan L. Burrell, Staff Attorney*
Maria Ramiu, Staff Attorney*
Loren M. Warboys, Executive Director*
YOUTH LAW CENTER
114 Sansome Street, Suite 950
San Francisco, CA 94194
(415) 543-3379

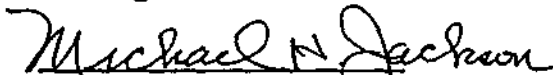


Velvia Garner
Director, Phillip B. Gilliam
Youth Services Center
2844 Downing Street
(303) 291-8900

Frank N. Dubofsky, Esq.
1881 14th Street, Suite 350
Boulder, CO 80302
(303) 447-3510
Denver, CO 80

DEFENDANTS

ATTORNEYS FOR THE PLAINTIFFS



Michael H. Jackson, Esq.
Franklin A. Nachman, Esq.
1120 Lincoln Street, Suite 1603
Denver, CO 80203
(303) 595-0941

ATTORNEYS FOR THE SCHOOL
DISTRICT DEFENDANT

* Admitted Pro Hac Vice

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 94 N 2816

CERTIFICATE OF MAILING

I hereby certify that a copy of the Memorandum of Agreement to Amend Settlement Agreement and Order signed by Judge Edward W. Nottingham on May 29, 1995, was mailed to the following on May 30, 1995:

David H. Miller, Esq.
Legal Director
AMERICAN CIVIL LIBERTIES
UNION OF COLORADO
400 Corona Street
Denver, CO 80218

Frank N. Dubofsky, Esq.
CANYON CENTER BUILDING
1881 9th Street, Suite 210
Boulder, CO 80302

Susan L. Burrell, Esq.
Maria F. Ramiu, Esq.
YOUTH LAW CENTER
114 Sansome Street, Suite 950
San Francisco, CA 94014

Stacy L. Worthington, Esq.
Toni Jo Gray, Esq.
Assistant Attorneys General
Human Resources Section
1525 Sherman Street, 5th Floor
Denver, CO 80203

Michael H. Jackson, Esq.
1120 Lincoln Street, Suite 1603
Denver, CO 80203

Magistrate Judge Donald E. Abram

JAMES R. MANSPEAKER, CLERK

By *Dell Hansen*
Deputy Clerk