

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

C.B., by and through his next friend, Charleston DePriest, et al.)	
)	
)	
Plaintiffs,)	
)	
v.)	CLASS ACTION
)	Civil Action No. 3:10cv663
WALNUT GROVE CORRECTIONAL AUTHORITY, et al.)	
)	
Defendants.)	

CONSENT DECREE

On or about November 16, 2010, Plaintiffs filed the above-captioned suit asserting constitutional and statutory challenges to conditions in the Walnut Grove Youth Correctional Facility. Plaintiffs and the Mississippi Department of Corrections stipulate and agree to the following provisions in partial resolution of the litigation. This Consent Decree contains provisions related to a settlement subclass comprised of all individuals who are now or in the future will be imprisoned in the Walnut Grove Youth Correctional Facility.

I. Introduction.

(1) In order to resolve the allegations in the Complaint related to protection from harm and violence, excessive use of force, punitive isolation, and inadequate medical care with regard to

individuals who are now or in the future will be imprisoned in the Walnut Grove Youth Correctional Facility ("WGYCF"), the parties have entered into this Consent Decree.

(2) The parties agree to a settlement subclass comprised of all individuals who are now or who in the future will be imprisoned in the WGYCF. The terms of this Consent Decree apply only to this subclass and only to the WGYCF, and do not follow a Plaintiff who is transferred, discharged, or otherwise leaves WGYCF.

(3) The Defendant in this lawsuit is Commissioner Christopher Epps, in his official capacity as Commissioner of the Mississippi Department of Corrections ("MDOC"). This Consent Decree refers to actions and inactions that will be undertaken by Commissioner Epps, his staff and contractors under his direction. For ease of reference only, this Consent Decree refers to "MDOC" through this Agreement. The Parties intend for this Agreement to bind Commissioner Epps and his assigns.

(4) The term "Walnut Grove Youth Correctional Facility" or "WGYCF" hereinafter refers to the correctional facility located in Leake County, Mississippi as provided for in Miss. Code Ann. § 47-5-943 (Rev. 2007) and located at 1650 Highway 492, Walnut Grove, Mississippi 39189. The terms of this Consent Decree apply to the facility located at this address, regardless of whether MDOC and/or the Mississippi Legislature change the name of the facility.

(5) The parties stipulate that nothing in this Consent Decree constitutes either an admission of liability, or any evidence of liability, with respect to suits for damages or any claims asserted against the named Defendants with respect to inmates who are housed, were housed, or may be housed in the future, at the Walnut Grove Youth Correctional Facility.

(6) Nothing in this Consent Decree will prevent the State of Mississippi and/or MDOC from modifying the mission of, or closing WGYCF, or developing alternative community placements for the persons currently in the facility as set forth herein.

(7) This Consent Decree is not intended to have any preclusive effect except between the parties. The parties acknowledge that the remedies contained in this agreement are not necessarily appropriate for facilities other than the WGYCF as described in this Consent Decree.

(8) Individuals who are not class members are not third-party beneficiaries of this agreement and may not assert any rights under this Consent Decree.

II. Care Required by the Constitution and Federal Statutes.

The purpose of this Consent Decree is to protect certain constitutional and federal statutory rights of individuals who are now or in the future will be imprisoned at WGYCF. The terms and requirements of this Consent Decree will be interpreted to be consistent with the remedial measures necessary to protect these rights of the prisoners, and consistent with applicable federal law. The terms of this Consent Decree are applicable only to WGYCF.

III. Substantive Remedial Measures.

WGYCF will be operated and maintained by MDOC, or by a contractor retained by MDOC, in accordance with the following conditions:

A. Classification and Housing System.

(1) MDOC will utilize a classification system that ensures prisoners are appropriately and safely housed within WGYCF.

B. Protection from Harm.

(1) At all times, prisoners will be provided with reasonably safe living conditions and will be protected from violence and other physical or sexual abuse by staff and other prisoners.

(2) MDOC will ensure that there are sufficient numbers of adequately trained direct care and supervisory staff, and sufficient numbers of professional staff. Within 90 days of the Court's approval of this Consent Decree, MDOC will develop and implement a staffing plan for direct care, supervisory, and professional staff to ensure that prisoners are adequately supervised and protected from harm and that prisoners have adequate access to medical services and adequate time out of their cells.

(3) Mechanical, physical or chemical restraints such as O.C. spray, pepper spray and mace will not be used to punish prisoners. If any restraint is necessary, the force must be the minimum amount required to safely contain the prisoners, and the restraints must be removed as soon as they are no longer necessary. Except in emergency circumstances, no prisoner should be subject to restraints until staff have first attempted verbal de-escalation techniques.

(4) Physical force and pain aversion behavior management techniques will not be used to punish prisoners. If physical force or pain aversion behavior management techniques are necessary, the force must be the minimum amount required to safely contain the prisoner. Except in emergency circumstances, no prisoner will be subject to physical force until staff have first attempted verbal de-escalation techniques.

(5) Except in exigent circumstances where no delay is possible because of the risk of bodily injury or serious damage to property creating a threat to security or except when totally impracticable, use of force will be captured on an audio-visual recording. MDOC will provide sufficient

audio-visual recording equipment at WGYCF to ensure that use of force as specified above will be recorded. The summary use of force reports will be provided to Plaintiffs' counsel on a monthly basis, and copies of videotapes will be available for inspection by Plaintiffs' counsel. If the use of force was not recorded, the use of force report must document why a recording was not made.

(6) Except in exigent circumstances where no delay is possible because of the risk of bodily injury or serious damage to property creating a threat to security, or except when totally impracticable, the Shift Commander or Warden will be notified and his or her consent obtained before force is used. Except in emergency circumstances, the Shift Commander or Warden will visit the prisoner before consenting to the use of force, to determine if force is necessary. A log will be maintained recording the efforts made to obtain the presence of the Shift Commander or Warden and a mental health professional prior to the use of force. These logs will become part of the monthly reports referred to in Section III B(7) below.

(7) All physical interventions, including use of force and mechanical and chemical restraints, must be documented in writing. The written documentation will include a detailed description of the physical intervention and the verbal de-escalation attempt(s) that occurred prior to the intervention. MDOC will use this documentation to review each physical intervention and to analyze patterns of use of force and restraint in an effort to reduce such incidents.

(8) Each use of force will be reviewed pursuant to MDOC's use of force policy and standard operating procedures.

(9) MDOC will develop protocols and procedures to ensure the involvement, where possible, of a mental health professional prior to use of force on prisoners with Serious Mental Illness, as defined in this Consent Decree.

(10) MDOC will develop policies and procedures that will limit the use chemical restraints. Chemical restraints will not be used as a punishment or to gain compliance. Chemical restraints may only be used to prevent seriously bodily injury or serious damage to property creating a threat to security. Only staff who have been trained on the appropriate use of chemical restraints may regularly carry chemical restraints on the living units.

(11) Issuance of restraint equipment will be documented in a bound Restraint Equipment Log Book. Staff members who are issued restraint equipment will initial in the appropriate section of the Log Book when checking equipment out of storage. The inventory number, name of the equipment, time in, and time out should be noted in the Log Book. Containers of chemical restraints that have been signed out for a shift will be weighed at the beginning and conclusion of that shift by the Shift Supervisor or his designee. The inventory numbers and weight of the containers will be documented in the Log Book.

(12) All prisoners who have been exposed to chemical restraints will be immediately removed from the contaminated area, will promptly be permitted to shower, and will be examined by medical staff to see if transport to the clinic is needed. Any contaminated living area will be decontaminated before a prisoner is returned to it. If emergency circumstances create an imminent threat to security and prevent staff from immediately removing prisoners from contaminated areas, MDOC will promptly provide prisoners who have been exposed to the chemical agents with an adequate supply of appropriate decontaminating agents.

(13) MDOC will not utilize, direct, or allow prisoners to enforce rules or impose discipline on other prisoners.

(14) MDOC will take reasonable steps to protect prisoners at WGYCF from verbal abuse and

harassment. MDOC will develop policies, procedures, and practices that protect prisoners from abuse, harassment, and punishment on the basis of their actual or perceived sexual orientation, gender identity, and gender non-conformity.

(15) MDOC will prohibit staff from forcing prisoners at WGYCF to engage in physical exertion that inflicts pain or discomfort, for example the practice of forcing prisoners to "alligator walk" and to "duck walk."

C. Long-Term Cell Confinement.

(1) MDOC will not subject prisoners to long-term cell confinement except in conformity with this Consent Decree. For purposes of this agreement, "cell confinement" means confinement to a cell for more than twenty-one hours a day. "Long term" with respect to cell confinement means confinement for more than sixty days.

(2) Prisoners may be held in long-term cell confinement only if:

- a. they have inflicted serious physical injury on another while incarcerated;
- b. they are actively involved in disruptive gang activity;
- c. they have escaped or attempted to escape from within a security perimeter or while under direct supervision;
- d. they have committed a felony while on escape from a community correctional facility; or
- e. the Commissioner or his designee determines, based on specific objective criteria set forth in writing, that there is a significant risk that the prisoner will cause physical injury to prison staff, other prisoners, or members of the public if he is housed in general population, even at the highest security level.

(3) Prisoners will not be held in long-term cell confinement for the following reasons:

- a. solely on their classification scores or for refusing to work or participate in programs;
- b. solely because they escaped from a youth facility or community correctional facility;
- c. solely because they are subject to a felony detainer, even if for a serious crime, from another jurisdiction;
- d. solely because they have tested positive for marijuana; or
- e. solely because they need protective custody. Prisoners needing protection will be housed and accorded access to visits, canteen, and other privileges consistent with their custody levels.

(4) Every 90 days, the classification committee will reconsider whether any prisoner who has been placed on long term cell confinement should be reclassified and returned to the general population.

(5) For the duration of this Consent Decree, MDOC will maintain and provide to Plaintiffs' counsel a current list of all WGYCF prisoners placed in long-term cell confinement with the date of and reason for placement, and the date of last review.

D. Programming and Behavior Management.

(1) MDOC will revise the Regimented Inmate Discipline Program to remove the paramilitary elements of the program.

(2) MDOC will develop a behavior management policy that incorporates graduated sanctions for rule violations, and positive incentives for good behavior.

(3) Except as limited by acceptable disciplinary procedures and punishment or a specific threat to safety, the norm will be that prisoners will be allowed out of their cells most of the hours of the day, including access to at least one hour a day of outside recreation, weather permitting.

E. Disciplinary Due Process and Grievances.

(1) MDOC will revise, if needed, its disciplinary procedures to ensure that prisoners receive adequate due process before the imposition of disciplinary sanctions (including rule violation reports) that would affect a prisoner's ability to earn the following: Earned Time Allowance, pursuant to Miss. Code Ann. § 47-5-138(1); Trusty Earned Time, pursuant to Miss. Code Ann. 47-5-138.1; Meritorious Earned Time, pursuant to Miss. Code § 47-5-142(2); Intensive Supervision Program, pursuant to Miss. Code Ann § 47-5-1003; Community Work Center / Pre-release Centers, as described in Miss. Code Ann § 47-5-181; or placement in the Regimented Inmate Discipline Program.

(2) MDOC will develop an adequate grievance procedure that is accessible to prisoners of varying English proficiency levels.

(3) MDOC will notify all prisoners of the rules of the institution, and will clearly describe the conduct that will be considered a rule violation and that may subject a prisoner to discipline.

F. Suicide Prevention.

(1) Within 90 days of the execution of this agreement, prisoners placed on suicide watch will be housed in a unit determined by a mental health professional to be appropriate. A mental health professional will direct the amount and location of out-of-cell activity for the prisoner with the goal of providing the fewest restrictions appropriate for the prisoner.

(2) MDOC will develop a suicide prevention policy that includes the following:

- a. a prohibition on placing prisoners on suicide watch as punishment or without medical justification;
- b. instructions for thoroughly documenting the suicide precautions that are administered to

- each prisoner who is placed on suicide watch;
- c. a process for conducting a review of any and all instances of attempted suicide or suicide. The review process will include a committee of staff (including mental health staff) who will review every attempted suicide or suicide in order to refine policies and procedures to decrease the number of these incidents;
 - d. all prisoners placed on suicide watch will be assessed by mental health professional as soon as possible but no later than 18 hours from being placed on suicide watch; any prisoner placed on suicide watch will be re-assessed by a mental health professional at least every 18 hours; and
 - e. if the initial assessment indicates that the prisoner is at a high risk for suicide and/or self-harm for longer than five days, that prisoner will be transferred to a facility that can provide intensive mental health services. If the assessment indicates that the prisoner needs less-intensive, but ongoing, supervision in order to prevent suicide and/or self-harm, a qualified mental health professional will develop an individual suicide prevention/treatment plan and will direct the appropriate unit to house the prisoner. This plan will be updated daily until the prisoner is no longer judged to be on an active suicide "watch" status.

(3) If an inmate has been deprived of his regular clothing (other than shoelaces and belts), a qualified mental health professional will determine if a medical or mental health justification exists for the continued deprivation. The deprivation may continue only if medical and mental health justifications exist for the continued deprivation and the mental health clinician makes specific written findings explaining these justifications. Each 24-hour clinical reassessment must

include written findings explaining any medical/mental health justifications for any continuing deprivation.

(4) If an inmate has been subject to cell confinement or deprived of access to regular programming and activities, a qualified mental health professional will determine if a medical or mental health justification exists for the continued cell confinement and/or deprivation. The cell confinement and/or deprivation may continue only if medical and mental health justifications exist for the continued cell confinement and/or deprivation and the qualified mental health professional makes specific written findings explaining these justifications. Each 24-hour clinical reassessment must include written findings explaining the medical and mental health justifications for any continuing cell confinement and/or deprivation.

G. Medical Care.

(1) Prisoners will be provided adequate, appropriate, and timely medical and dental care to meet their individualized needs, including the treatment of acute and chronic conditions. Care will be provided at WGYCF, or the Prisoners will be transferred to a facility that complies with the National Commission on Correctional Health Standards for Health Care in Adult Confinement Facilities.

(2) WGYCF will not be used for long-term housing of prisoners with Serious Mental Illness. Prisoners with Serious Mental Illness must be transferred to a facility where they will receive appropriate mental health treatment. For purposes of this Consent Decree, "long-term" means more than 14 days. "Prisoners with Serious Mental Illness" means those with an Axis I diagnosis of a major mental illness (for example Schizophrenia or other psychotic disorder), Bipolar Disorder, Depressive Disorder or other serious Mood Disorder; prisoners who are significantly

disabled by mental retardation or an organic brain disorder; and prisoners who are significantly disabled by any other mental disorder (for example, Generalized Anxiety Disorder, Post-traumatic Stress Disorder, or any disorder characterized by repetitive self-harm).

(3) A medical professional will direct the amount and location of out-of-cell activity for the prisoners who are in need of medical care with the goal of providing the fewest restrictions appropriate for the prisoner.

H. Contract Monitoring and Revisions.

(1) MDOC will develop comprehensive contract monitoring policies and procedures, and will monitor the contracts with the operator of WGYCF and the health care provider at WGYCF in compliance with these policies and procedures.

(2) MDOC will revise the contracts currently in place with the operator of WGYCF and the health care provider at WGYCF to incorporate the terms of this Consent Decree.

IV. Enforcement and Monitoring.

(1) The parties agree to the appointment of James Austin and Steven Martin as monitors responsible for tracking compliance with the terms of this Consent Decree. The monitors may, if asked by MDOC, provide technical assistance to MDOC to promote compliance with the terms of this Consent Decree. The monitors will be responsible for submitting reports to counsel every four months following the Court's approval of this Consent Decree. The monitors will provide their reports in draft form to the parties for comments at least two weeks before issuance. Should either of the monitor positions become vacant and the parties are unable to agree on a replacement, the parties will recommend candidates to the magistrate judge and the parties agree to accept the

candidate chosen by the magistrate judge. The reasonable cost for the experts' fees and expenses related to monitoring will be borne by MDOC.

(2) The monitors and Plaintiffs' counsel, with advance notice, will have full and complete access to WGYCF, to all facility records (including medical and mental health records), and to staff (who will be directed to cooperate with the experts and Plaintiffs' counsel), as well as to all subclass members. State attorneys may be present at interviews of staff and tours of facilities. The experts and Plaintiffs' counsel will comply with all applicable federal and state laws with regard to confidentiality of such records and information.

(3) Within 90 days of the Court's approval of this Consent Decree, MDOC expert James Austin and Plaintiffs' expert Steve Martin will collaborate in a non-binding manner with MDOC to promulgate the policies, procedures, classification, and staffing plans necessary to effectuate this Consent Decree. Plaintiffs' counsel will compensate Steve Martin only for expenses related to drafting these policies, procedures and plans and that expense will not be the responsibility of MDOC. MDOC retains the final authority over the drafting and wording of the policies and staffing plans, as long as the policies and plans are consistent with the terms of this Consent Decree. Once drafted, MDOC will submit the draft policies and plans to Plaintiffs' counsel. Plaintiffs' counsel will promptly notify MDOC of any objections, with an explanation as to how the draft is inconsistent with the terms of this Consent Decree, and will suggest revisions. MDOC will revise policies, procedures, plans, and other written documents as necessary to conform with the terms of this Consent Decree. If either party is unsatisfied with the resolution, then either party may invoke the assistance of the magistrate judge for mediation. If mediation fails to resolve the dispute, the Plaintiffs may file a motion to enforce this Consent Decree.

(4) The parties agree that the terms of prospective relief afforded by the terms of this Consent Decree are narrowly drawn, pertain exclusively to the subclass defined herein, extend no further than necessary to correct the violations of federal rights at issue, are the least intrusive means necessary to correct the violations of federal rights at issue, and all terms and conditions of this Consent Decree will be construed in accord with federal law, including the Prison Litigation Reform Act.

(5) The parties agree that the terms of this Consent Decree will be submitted to the Court for approval, and the Court will retain jurisdiction to enforce the terms thereof.


(6) Nothing in this Decree alters the requirements of the Prison Litigation Reform Act, including the exhaustion requirement, with respect to any class member who seeks to assert an individualized dispute against MDOC, including a damages action, which is unrelated to the terms of this Consent Decree. Nothing in this Consent Decree bars a member of the Plaintiff class from bringing an individualized suit seeking damages or prospective relief under state and/or federal law. Only class counsel may seek to enforce the terms of this Consent Decree.

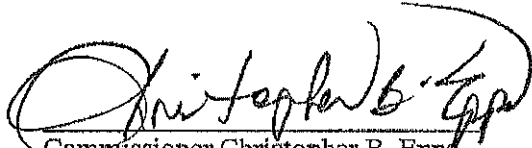
(7) If Plaintiffs believe that MDOC has substantially failed to comply with any obligation under this Consent Decree, Plaintiffs' counsel will give written notice of that failure to MDOC. The parties will conduct good faith discussions to resolve the dispute. If the parties are unable to reach agreement within 7 days of Plaintiffs' written notice, the parties will submit the dispute to mediation before the magistrate judge who is assigned to this case. The parties will attempt in good faith to mediate the dispute. If the parties are unable to resolve the dispute within 21 days from the date of Plaintiffs' written notice, Plaintiffs may seek enforcement of this Consent Decree from the Court. In the case of an emergency posing an immediate threat to the health or safety of the

individuals housed at WGYCF, Plaintiffs' counsel may omit the notice and cure requirements herein (including the provision regarding mediation) before seeking enforcement from the Court.

(8) This Consent Decree will terminate five years from the date it is filed with the Court. The Consent Decree may also terminate earlier than five years from the date it is filed with the Court if the Court determines that MDOC substantially complied with each of the provisions of the Consent Decree and has continuously maintained substantial compliance for at least two years. Noncompliance with mere technicalities, or a brief lapse in compliance during a period of otherwise sustained compliance, will not constitute failure to maintain substantial compliance. The Court may extend this Consent Decree and/or any of its provisions twice, and each extension may be no longer than one year upon a finding that MDOC failed to substantially comply.

Agreed:

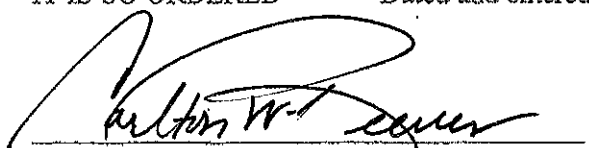

Sheila A. Bedi, Miss. Bar No. 101652
Southern Poverty Law Center
4431 Canal Street
New Orleans, LA 70119


Commissioner Christopher B. Epps
Mississippi Department of Corrections
723 North President Street
Jackson, MS 39202
For the Defendant

Margaret Winter (*pro hac vice*)
The National Prison Project of
the ACLU Foundation, Inc.
915 15th Street, N.W., Seventh Floor
Washington, D.C. 20005

Robert B. McDuff, Miss. Bar. No. 2532
767 North Congress Street
Jackson, Mississippi 39202
For the Plaintiffs

IT IS SO ORDERED Dated and entered this March day of 26th 2012


United States District Judge Carlton W. Reeves

**Memorandum of Agreement
Mental Health -WGYCF**

I. INTRODUCTION

- (A) This Memorandum of Agreement (“MOA”) between the certified class of Plaintiffs described in subsection (G) below and Christopher Epps, in his official capacity as Commissioner of the Mississippi Department of Corrections (“MDOC”) resolves litigation concerning the mental health claims in C.B., et al. v. Walnut Grove Correctional Authority, et al., case number 3:10cv663 (S.D. Miss.). A separate settlement agreement between the parties, that the parties will seek to have the Court enter as a Consent Decree, addresses other topics agreed to between the parties. This litigation concerns conditions of confinement at the Walnut Grove Youth Correctional Facility (“WGYCF”) (*as described in* Miss. Code Ann. § 47-5-943 (Rev. 2007)), located at 1650 Highway 492, Walnut Grove, Mississippi 39189.)

This MOA refers to actions and inactions that will be undertaken by Commissioner Epps, his staff and contractors under his direction. For ease of reference only, this MOA refers to “MDOC” through this Agreement. The Parties intend for this Agreement to bind Commissioner Epps and his assigns.

The terms of this MOA apply to the facility located at this address, regardless of whether MDOC and/or the Mississippi Legislature change the name of the facility. The terms of this MOA do not follow a Plaintiff who is transferred, discharged, or otherwise leaves WGYCF.

- (B) In order to resolve the mental health claims in this litigation, the parties have entered into this MOA.
- (C) This MOA does not constitute an admission of liability by MDOC.
- (D) This MOA is not intended to have any preclusive effect except between the parties.
- (E) Nothing in this MOA will prevent the State of Mississippi and/or MDOC from modifying the mission of or closing WGYCF, or developing alternative community placements for the persons currently in the facility as set forth herein.
- (F) Individuals who are not class members are not third party beneficiaries of this agreement and may not assert any rights under this agreement.
- (G) The parties will jointly request that the Court enter an order certifying a sub-class comprised of all individuals who are now or who in the future will be housed WGYCF and who live with a serious mental illness, referred to in this MOA as “Plaintiffs” or “prisoners.”

II. CARE REQUIRED BY THE CONSTITUTION

The purpose of this MOA is to protect the rights of Plaintiffs to constitutionally adequate mental health care. The terms and requirements of this MOA will be interpreted to be consistent

with the remedial measures necessary to protect these rights, and consistent with applicable federal law.

III. MENTAL HEALTH CARE

- 1) MDOC will provide prisoners with adequate, appropriate, and timely mental health care to meet their individual needs, including the treatment of acute and chronic conditions. If the MDOC Office of Medical Compliance determines that appropriate mental health care cannot be provided at WGYCF, MDOC may transfer prisoners to other MDOC or Non-MDOC facilities, on a permanent or temporary basis, in order to receive mental health treatment.
- 2) Within 90 days of the execution of this agreement, MDOC will develop and implement policies and procedures, and will develop and implement a staffing plan, to ensure that adequate mental health services are provided by adequate numbers of qualified mental health professionals using evidence-based, generally accepted treatment approaches.
- 3) Within 120 days of the execution of this agreement, Defendants will ensure that every prisoner at WGYCF who has not previously received a mental health evaluation or who is not currently being treated by a mental health professional will receive a mental health examination if that prisoner has physically attempted suicide or serious self-harm within the past year, or if that prisoner has a history of institutionalization in mental health facilities. Prisoners who are diagnosed with chronic mental health issues will receive individualized mental health treatment plans. The plans will comport with generally accepted treatment approaches.

IV. IMPLEMENTATION AND MONITORING

- 4) Within 90 days of the Court's approval of this MOA, MDOC expert James Austin and Plaintiffs' expert Steve Martin will collaborate in a non-binding manner with MDOC to promulgate the policies, procedures, and staffing plans necessary to effectuate this MOA. Plaintiffs' counsel will compensate Steve Martin only for expenses related to drafting these policies, procedures and plans and that expense will not be the responsibility of MDOC. MDOC retains the final authority over the content, drafting, and wording of the policies and staffing plans, as long as the policies and plans are consistent with the terms of this MOA. Once drafted, MDOC will submit the draft policies and plans to Plaintiffs' counsel. Plaintiffs' counsel will promptly notify MDOC of any objections, with an explanation as to how the draft is inconsistent with the terms of this MOA, and will suggest revisions. MDOC will revise policies, procedures, plans, and other written documents as necessary to conform with the terms of this MOA. If either party is unsatisfied with the resolution, either party may invoke the assistance of the magistrate judge for mediation. If mediation fails, Plaintiffs may re-instate the Complaint.

- 5) The parties agree to the appointment of James Austin and Steve Martin as monitors responsible for tracking compliance with the terms of this MOA. The monitors may, if asked by MDOC, provide technical assistance to MDOC to promote compliance with the terms of this MOA. The monitors will be responsible for submitting reports to counsel every four months following the Court's approval of this MOA. The monitors will provide their reports in draft form to the parties for comments at least two weeks before issuance. Should both of the monitor positions become vacant and the parties are unable to agree on a replacement, the parties will recommend candidates to the magistrate judge and the parties agree to accept the candidate chosen by the magistrate judge. The reasonable cost for the experts' fees and expenses related to monitoring will be borne by MDOC.

V. ACCESS

- 6) The monitors and Plaintiffs' counsel, with advance notice, will have full and complete access to WGYCF, to all facility records, and to staff (who will be directed to cooperate with the experts and Plaintiffs' counsel), as well as to all subclass members. State attorneys may be present at interviews of staff and tours of facilities. The experts and Plaintiffs' counsel will comply with all applicable federal and state laws with regard to confidentiality of such records and information.


VI. ENFORCEMENT AND TERMINATION

- 7) If Plaintiffs believe that MDOC has substantially failed to comply with any obligation under this MOA, Plaintiffs' counsel will give written notice of that failure to MDOC. The parties will conduct good faith discussions to resolve the dispute. If the parties are unable to reach agreement within 7 days of Plaintiffs' written notice, the parties will submit the dispute to mediation before the magistrate judge who is assigned to this case. The parties will attempt in good faith to mediate the dispute for a period of 21 days with the magistrate judge. The terms of this MOA are not subject to state or federal court enforcement other than the reinstatement of those paragraphs of the Complaint that this MOA settled. If MDOC has substantially failed to comply with any obligation under this agreement, Plaintiffs may reinstate the mental health provisions of the Complaint. In the case of an emergency posing an immediate threat to the health or safety of the individuals housed at WGYCF, Plaintiffs' counsel may omit the notice and cure requirements herein (including the provision regarding mediation) before reinstating the Complaint. All Plaintiffs are bound by this MOA, and a Plaintiff or Plaintiffs may not initiate a legal action asserting claims contained within the Complaint filed in cause number 3:10cv663 (S.D. Miss.) as long as this MOA is in effect. Nothing in this MOA bars a member of the Plaintiff class from bringing an individualized suit seeking damages or prospective relief under state and/or federal law. Only class counsel may seek to enforce the terms of this MOA.

- 8) In the event that Plaintiffs reinstate the Complaint, the parties agree that this case will proceed expeditiously. To that end, the parties agree to the following procedures for reinstatement:
- a. Plaintiffs will file a Notice of Re-instatement and an Amended Complaint.
 - b. Within 20 days of Plaintiffs' filing, Defendants will file a responsive pleading.
 - c. The case management conference, unless stayed pursuant to court order, will occur within 35 days of Plaintiffs' filing or at the earliest date that is convenient for the court.
- 9) This MOA will terminate five years from the date it is executed, unless the Complaint is reinstated as referenced above. When the MOA is terminated, all claims pertaining to mental health in case number 3:10cv663 (S.D. Miss.) will be dismissed without prejudice. The MOA may also terminate earlier than five years from the date it is executed if the magistrate judge determines MDOC has substantially complied with each of the provisions of this MOA and has continuously maintained substantial compliance for at least two years. Noncompliance with mere technicalities, or a brief lapse in compliance during a period of otherwise sustained compliance, will not constitute failure to maintain substantial compliance.

Executed the 1st day of February, 2012

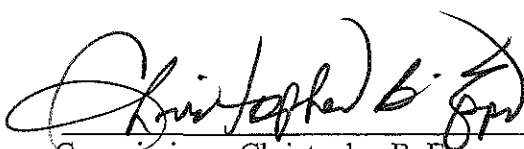
Agreed:



Sheila A. Bedi, Miss. Bar No. 101652
Southern Poverty Law Center
4431 Canal Street
New Orleans, LA 70119

Margaret Winter (*pro hac vice*)
The National Prison Project of
the ACLU Foundation, Inc.
915 15th Street, N.W., Seventh Floor
Washington, D.C. 20005

Robert B. McDuff, Miss. Bar. No. 2532
767 North Congress Street
Jackson, Mississippi 39202
For the Plaintiffs



Commissioner Christopher B. Epps
Mississippi Department of Corrections
723 North President Street
Jackson, MS 39202
For the Defendant

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

C.B., by and through his next friend,
Charleston DePriest, et al.

Plaintiffs,

v.

WALNUT GROVE CORRECTIONAL
AUTHORITY, et al.

Defendants.

CLASS ACTION
Civil Action No. 3:10cv663

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

To: All individuals who are now or who will in the future be imprisoned in the Walnut Grove Youth Correctional Facility

The Mississippi Department of Corrections (“MDOC” or “Defendant”) has agreed to settle a class action lawsuit over conditions in the Walnut Grove Youth Correctional Facility (“WGYCF”). The lawsuit was filed in November 2010 by the Southern Poverty Law Center, the National Prison Project of the American Civil Liberties Union, and Robert B. McDuff on behalf of fourteen people who sought relief on behalf of all individuals who are confined in WGYCF (“Plaintiffs”). The lawsuit claimed that conditions in WGYCF violated the law because people who are confined at WGYCF are subjected to violent, inhumane prison conditions, excessive use of force, deprivations of medical and mental health care, prolonged isolation, and inadequate suicide prevention policies and procedures. The lawsuit requested that the Court order MDOC to end the legal violations and improve living conditions and medical and mental health care for all people confined in WGYCF.

The purpose of this Notice is to inform you of the status of the lawsuit, including your rights with respect to a Proposed Settlement of the case, and the opportunity to file with the Court any objections you may have to the Proposed Settlement.

1. The Settlement Class: The parties have agreed to a settlement subclass made up of all people who are now or who in the future will be imprisoned in the WGYCF. If the Court approves this settlement and you are a member of the settlement class, this settlement will affect your rights.
2. Proposal to settle the case by adoption of a Consent Decree and a Memorandum of Agreement: The Plaintiffs and the Defendants have proposed two documents that would,

if approved by the Court, settle this case. The first is a Consent Decree which the Plaintiffs' lawyers would monitor and enforce in federal court. The Consent Decree governs conditions of confinement in WGYCF. The second is a Memorandum of Agreement ("MOA") that would govern the mental health services provided to individuals imprisoned in WGYCF. Plaintiffs' lawyers would monitor the MOA and, if MDOC violated its terms, re-instate the provisions of the Complaint related to mental health services. The MOA cannot be enforced in federal court.

3. No money damages are involved in this case: The lawsuit does not involve money damages, so whether this case settles or goes to trial, no class member will obtain money from MDOC. Nothing in the Proposed Settlement would prevent you from filing a separate lawsuit for money damages against MDOC.
4. Terms of the Proposed Settlement: The terms of the Proposed Settlement would require MDOC to do the following:

Consent Decree Provisions:

- a. Develop a housing and classification system that would ensure individuals are appropriately and safely housed while at WGYCF;
- b. Provide individuals at WGYCF with reasonably safe living conditions and provide protections from violence and sexual and physical abuse;
- c. Provide sufficient staffing to ensure individuals at WGYCF are protected from harm, provided adequate access to medical services, and given adequate out-of-cell time;
- d. Restrict the use of mechanical, physical, and chemical restraints;
- e. Restrict the use of long term cell confinement;
- f. Remove the paramilitary elements of the Regimented Inmate Discipline;
- g. Except as limited by discipline policies or a specific threat to safety the norm will be that prisoners will be allowed out of their cells most of the hours of the day, including access to at least one hour a day or outside recreation, weather permitting;
- h. Ensure that individuals receive adequate due process prior to the imposition of discipline (including rule violation reports);
- i. Develop and implement a comprehensive suicide prevention policy;
- j. Provide adequate, appropriate, and timely medical and dental care; and
- k. MDOC will monitor the contracts in place with WGYCF's operator and health care provider and amend these contracts to reflect the terms of these Agreements.

Memorandum of Agreement – Mental Health Provisions:

- a. Provide individuals at WGYCF custody with adequate, appropriate, and timely mental health care;
- b. Provide every individual at WGYCF who has 1) attempted suicide or deliberately hurt himself within the last year, or 2) stated that he was previously diagnosed with a mental illness and/or has a history of institutionalization with an individualized mental health treatment plan; and
- c. Ensure adequate mental health staffing.

The summary of the Settlement Provisions in this Notice does not include all of the terms and conditions of the Proposed Settlement. The only complete statement of the terms of the Proposed Settlement is found in the actual Proposed Consent Decree and Proposed Memorandum of Agreement. A copy of each is attached to this Notice. You may also obtain a copy by writing to:

Alesha C. Judkins
Southern Poverty Law Center
111 East Capitol Street, Suite 280
Jackson, MS 39201

5. Reasons for Settlement: Class counsel has concluded that the terms and conditions of the Proposed Settlement are fair, reasonable, and adequate and are in the best interests of the class. In reaching this conclusion, Class Counsel has carefully analyzed the benefits of settlement and the risks of an unfavorable outcome in this litigation, as well as the length of time that would be needed to prosecute this case through a trial and possible appeals.
6. If you have no objection to the Proposed Settlement: If you have no objection to the Proposed Settlement, you do not have to do anything.
7. If you object to the Proposed Settlement: If you believe the Court should not approve the settlement of this case because you object to the terms of the Proposed Settlement, you may object. If you wish to object, you must submit the objection in writing. Objections must contain the following information:
 - a. The case name and number: *DePriest v. Walnut Grove Correctional Authority, et al.*, Civil Action No. 3:10cv663;
 - b. Your full name and MDOC number; and
 - c. What it is exactly that you object to about the Proposed Settlement, with an explanation of why you object.

For your objection to be considered by the Judge, you must mail it by March 15, 2012 to the Clerk of the Court:

Clerk of the United States District Court
Attention: *DePriest v. Walnut Grove Correctional Authority, et al.*
P.O. Box 23552
Jackson, MS 39225-3552

8. Fairness Hearing: After reviewing all of the objections that were filed on time, the Court will hold a fairness hearing on March 22, 2012 at 9:00am in the U.S. Federal Courthouse, 501 E. Court Street, Jackson, Mississippi to decide whether or not to approve the Proposed Settlement. If the Judge decides that the Proposed Settlement is fair, adequate, and a reasonable compromise of this case, then the Proposed Settlement will become final.

9. Questions about the Proposed Settlement: If you have questions about the Proposed Settlement or wish to review any of the documents in the case, you may contact:

Alesha C. Judkins
Southern Poverty Law Center
111 East Capitol Street, Suite 280
Jackson, MS 39201

10. If the Court does not approve the Proposed Settlement: If, after the fairness hearing, the Court decides not to approve the Proposed Settlement, the Proposed Settlement will be voided and will have no further effect. The case will not be settled and the lawsuit will proceed. If that happens, there is no assurance that the outcome will be in favor of the class members.

Approved this the 9th day of February, 2012

/s Carlton W. Reeves
United States District Judge