



JI-NM-001-002

COPY

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

JOHNNIE K. and PATRICK M.,)
minors, by and through their)
next friend, Maria E. Rodriguez,)
on behalf of themselves and)
all others similarly situated,)

Plaintiffs,)

vs.)

THE COUNTY OF CURRY, NEW MEXICO,)
MICHAEL C. GATTIS, ANITA C.)
MERRILL, and CHARLES B. STOCK-)
TON, County Commissioners of the)
County of Curry, New Mexico,)
individually and in their offi-)
cial capacities; WESLEY MYERS,)
Sheriff of the County of Curry,)
New Mexico, individually and in)
his official capacity; and RUBEN)
E. NIEVES and FRED T. HENSLEY,)
District Judges of the Ninth)
Judicial District of the State)
of New Mexico, in their official)
capacities,)

Defendants.)

FILED

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

AUG 31 1983

Civil Action
No. CV-81-0914-M

SETTLEMENT AGREEMENT AND FINAL ORDER AS TO DECLARATORY
AND INJUNCTIVE RELIEF AND DAMAGES

This is a civil rights action for declaratory judgment, permanent injunction, damages and other relief brought by juveniles confined in the Curry County Jail in Clovis, New Mexico. The Complaint in this action was filed on November 4, 1981. The Plaintiffs, on behalf of themselves and a class of juveniles similarly situated, alleged that the Defendants

subjected them to cruel, unconscionable and illegal conditions of confinement in the jail; illegal incarceration in the jail without adequate separation from confined adult offenders; unlawful secure detention in the jail of juveniles who are charged with or who have committed offenses which would not be criminal if committed by adults ("status offenses"); and denial of adequate and appropriate placements as alternatives to the jail. The Defendants answered and denied the material allegations of the Complaint.

By Order dated December 30, 1982, this Court certified that this action should proceed as a class action under Rule 23(b) of the Federal Rules of Civil Procedure. The certified class includes:

All juveniles who have been incarcerated as of November 4, 1981 in the Curry County Jail and will be in the future.

While neither admitting nor denying any allegations of fact or legal liability, the parties have now agreed to the entry of a settlement agreement and order resolving all of Plaintiff's claims for declaratory and injunctive relief and for damages. Therefore, based upon the Stipulation and agreement of all parties to this action, by and through their respective counsel, and based upon all matters of record in this case,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. This Court has jurisdiction over this matter.

2. The named Plaintiffs in this action are JOHNNIE K. and PATRICK M., suing by and through their next friend, MARIA E. RODRIGUEZ.

3. The Defendants in this action are:

THE COUNTY OF CURRY, NEW MEXICO;

CLAUDE W. BURKETT, CULLEN WILLIAMS and TRAVIS STOVALL, Commissioners of Curry County, New Mexico;

MICHAEL C. GATTIS, ANITA C. MERRILL and CHARLES B. STOCKTON, former County Commissioners of Curry County;

WESLEY MYERS, the Sheriff of Curry County; and

RUBEN E. NIEVES and FRED T. HENSLEY, District Judges of the Ninth Judicial District of the State of New Mexico.

4. This action is properly maintained as a class action under Rule 23(b) of the Federal Rules of Civil Procedure

5. The Plaintiff class consists of:

All juveniles who have been incarcerated as of November 4, 1981 in the Curry County Jail and will be in the future.

6. On or before September 1, 1983, the Defendants shall cease to order detention and shall cease to detain juveniles in the Curry County Jail.

7. From the date of entry of this Settlement Agreement and Final Order until September 1, 1983, the Defendants will confine juveniles in the Curry County Jail for a period of time not to exceed eight (8) hours.

8. The Defendants County of Curry, New Mexico, Michael C. Gattis, Anita C. Merrill, Charles B. Stockton and Wesley Myers will pay to the Plaintiff Johnnie K. the sum of \$600.00.

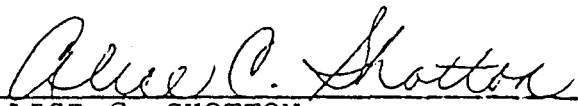
9. The Defendants County of Curry, New Mexico, Michael C. Gattis, Anita C. Merrill, Charles B. Stockton and Wesley Myers will pay to the Plaintiff Patrick M. the sum of \$400.00.

10. No just reason exists for delay in entering this Settlement Agreement and Final Order as to all Defendants in accordance with its terms.

11. The agreement set forth herein constitutes a fair and reasonable resolution of Plaintiff's claims for declaratory and injunctive relief, and for damages, and is therefore approved by this Court. The Court's Order as to these issues is final and the Court does not retain continuing jurisdiction as to these issues.

12. The issue of Plaintiffs' attorneys fees is still in dispute between the parties and therefore the Court retains jurisdiction of this issue.


UNITED STATES DISTRICT JUDGE


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