

M.P., by and through his next friend,
A.T.; D.M., by and through his next
friend, N. J.; and E.B., by and through
her next friend, E.R.,
 Plaintiffs,

vs.

TEXAS YOUTH COMMISSION and
DIMITRIA D. POPE, in her official
capacity as Acting Executive Director
of Texas Youth Commission
 Defendants.

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IN THE DISTRICT COURT

OF TRAVIS COUNTY, TEXAS

53rd JUDICIAL DISTRICT

Filed in The District Court
 of Travis County, Texas
 SEP 28 2007
 At 2:07 P.M.
 Amalia Rodriguez-Mendoza, Clerk

AGREED FINAL JUDGMENT AND ORDER OF DISMISSAL

On this day appeared Plaintiffs, M.P., by and through his next friend, A.T.; D.M., by and through his next friend; N.J., and E. B., by and through her next friend, E. R., and Defendants, Texas Youth Commission and Dimitria D. Pope, in her official capacity as Acting Executive Director of Texas Youth Commission, by and through their counsel and announced that the parties have reached an agreement settling all matters of fact and controversy. The Court finds:

- 1) Pursuant to the agreement of the parties, bona fide disputes and controversies exist as to whether or not Texas Youth Commission's Executive Directive #2 FY07, adopted on August 2, 2007, is a rule under the Administrative Procedures Act (APA).
- 2) Pursuant to an agreement of the parties, Texas Youth Commission will suspend the enforcement of the terms of Executive Directive #2 FY07 and will instead enforce the provisions of its use of force rule codified at 37 Tex. Admin. Code § 97.23 that was in place prior to the issuance of Executive Directive #2 FY07.
- 3) Pursuant to agreement of the parties, Texas Youth Commission further agrees that any change to its existing use of force rule codified at 37 Tex. Admin. Code § 97.23 will be promulgated under the provisions of the APA.
- 4) Pursuant to agreement of the parties, Texas Youth Commission within 24 hours of the entry of the agreed order, the agency will notify all of its staff who are

authorized and trained to use OC spray in its high restriction facilities about the suspension of Executive Directive #2 FY07.

5) Pursuant to agreement of the parties, Texas Youth Commission will provide Plaintiffs' counsel with following data on the use of use of OC spray in each of its facilities from January 1, 2007 to the date of the entry of the agreed order, and will supplement that data every two weeks thereafter until such time as the agency formally revises or adopts any changes to its use of force rule codified at 37 Tex. Admin. Code § 97.23 through the APA procedures:

- (a.) The date of any use of OC spray and the facility at which it occurred;
- (b.) The age and sex of the youth involved in the incident; and
- (c.) The youth behavior that led to the use of OC spray and the attempts made by TYC staff to control the situation prior to administering OC spray.

6) Pursuant to the agreement of the parties, this lawsuit shall be dismissed with prejudice and the parties will bear their own attorney's fees, costs, and expenses.

IT IS THEREFORE ORDERED that Texas Youth Commission shall suspend the enforcement of the terms of Executive Directive #2 FY07 and will instead enforce the provisions of its use of force rule codified at 37 Tex. Admin. Code § 97.23 that was in place prior to the issuance of Executive Directive #2 FY07;

IT IS FURTHER ORDERED that any change to Texas Youth Commission's existing use of force rule codified at 37 Tex. Admin. Code § 97.23 shall be promulgated under the provisions of the APA;

IT IS FURTHER ORDERED that Texas Youth Commission shall, within 24 hours of the entry of the agreed order, notify all of its staff who are authorized and trained to use OC spray in its high restriction facilities about the suspension of Executive Directive #2 FY07;

IT IS FURTHER ORDERED that Texas Youth Commission shall provide Plaintiffs' counsel with following data on the use of use of OC spray in each of its facilities from January 1, 2007 to the date of the entry of the agreed order, and will supplement that data every two weeks thereafter

until such time as the agency formally revises or adopts any changes to its use of force rule codified at 37 Tex. Admin. Code § 97.23 through the APA procedures:

- (a.) the date of any use of OC spray and the facility at which it occurred;
- (b.) the age and sex of the youth involved in the incident; and
- (c.) the youth behavior that led to the use of OC spray and the attempts made by TYC staff to control the situation prior to administering OC spray.

IT IS FURTHER ORDERED that this lawsuit is in all things DISMISSED with prejudice;
and

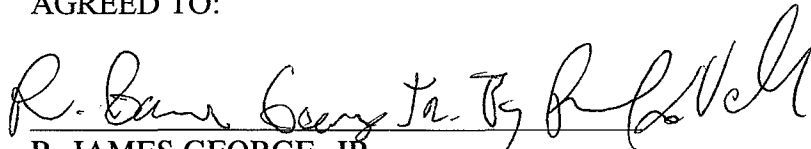
IT IS FURTHER ORDERED that all costs of court, attorney's fees, and expenses are taxed against the party incurring same.

All other relief not expressly granted in this agreed judgment and order of dismissal is denied.

Signed this 28th day of SEPTEMBER, 2007.


JUDGE PRESIDING

AGREED TO:



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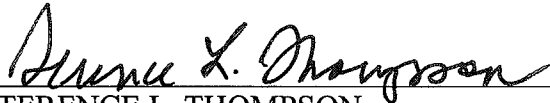
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