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11/5/96 emc advised orally to file appropriate filing in 4 years to finalize Supplemental Stipulation & Judgment

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THE HONORABLE ROBERT J. BRYAN

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CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

Horton v. Williams
JI-WA-0002-0042

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

FILED
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NOV 05 1996
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA
DEPUTY

JAMES HORTON, et al.,
Plaintiffs,
vs.
BOB WILLIAMS, et al.,
Defendants.


CLASS ACTION
No. C94-5428 RJB
SUPPLEMENTAL STIPULATION &
JUDGMENT RESOLVING PLAINTIFFS'
REMAINING CLAIMS

STIPULATION

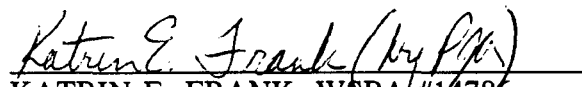
The parties, plaintiffs James Horton, James Barnhart, Jerome Payton, J.B., through his next friend, Lorane West, and K.M., through his mother Debbie Moore, through their counsel of record Patricia J. Arthur, David Lambert, Robert A. Stalker, Jr. and Katrin E. Frank, and the State defendants, Art Schmidt, Lyle Quasim, and Sid Sidorowicz, through their counsel, Edward J. Dee, hereby agree that the following Judgment shall be entered, subject to approval of the court and notice to class members. This Supplemental Stipulation and Judgment is entered to finally resolve the remaining claims for injunctive and declaratory relief in the above-captioned lawsuit. This Supplemental Stipulation and Judgment does not

1 involve and therefore does not preclude any class member from filing a claim for damages
2 relating to any claim raised in this equitable action. The parties enter into this Supplemental
3 Stipulation and Judgment for purposes of settling disputed contentions and controversies.
4 Defendants waive their right, to the extent such right exists, to challenge this Supplemental
5 Stipulation and Judgment pursuant to 18 U.S.C. §3626(b)(1) or (2), or any other section of
6 the Prison Litigation Reform Act. This Supplemental Stipulation and Judgment incorporates
7 all the terms and conditions of the parties' prior Stipulation and Judgment Resolving Certain
8 Claims and Continuing Trial on the Remaining Ones.

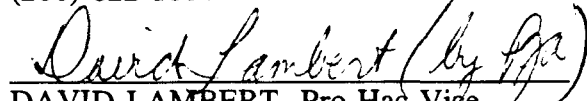
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10 DATED this 2nd day of August, 1996.

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12 
13 PATRICIA J. ARTHUR, WSBA #13769
14 Attorney for Plaintiffs

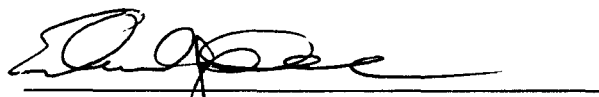
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19 (206) 464-0838

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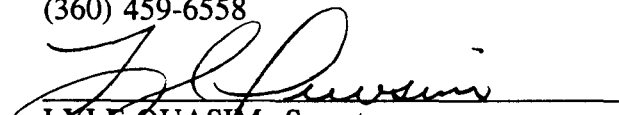
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114 Sansome Street, Suite 900
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13 EDWARD J. DEE, WSBA #15964
14 Assistant Attorney General
15 Attorney for State Defendants

16 Office of the Attorney General
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18 Olympia, WA 98504-0124
19 (360) 459-6558

20 
21 LYLE QUASIM, Secretary


22 Department of Social & Health Services
23 P.O. Box 45010
24 Olympia, WA 98504-5010
25 (360) 753-7039

1 JUDGMENT

2 This matter having been heard by the Honorable Robert J. Bryan, United States
3 District Court Judge, the parties having stipulated to the entry of this Supplemental
4 Judgment, notice to class members having been issued, and all comments from class
5 members considered by the court, the court approves and enters the following Supplemental
6 Judgment. The relief herein is narrowly drawn and extends no further than necessary to
7 address the alleged violations of the federal rights of plaintiffs as stated in the complaint.
8 Furthermore, the relief provided is the least intrusive means to address alleged violations of
9 plaintiffs' federal rights as stated in the complaint.
10

11 **BACKGROUND AND DEFINITIONS**

12
13 1. The Complaint in this action was filed on August 11, 1994, on behalf of the
14 named plaintiffs, and all others similarly situated, against defendants Bob Williams,
15 Superintendent of Green Hill School (GHS), Jean Soliz, Secretary of the Department of
16 Social & Health Services (DSHS), and Sid Sidorowicz, Assistant Secretary of DSHS, and
17 their officers, agents, employees, and successors (the State defendants). Plaintiffs filed their
18 First Amended Complaint on August 17, 1994, adding the Chehalis School District as a
19 defendant.
20

21 2. The State defendants moved to dismiss this case on September 26, 1994. On 
22 November 8, 1994, District Court Judge Robert J. Bryan denied defendants' Motion to
23 Dismiss.

24
25 3. This case was certified as a class action by Stipulated Order filed on
26 September 30, 1994. The class is defined as "All juveniles currently or in the future
27 incarcerated at Green Hill School."
28

1 4. On December 6, 1994, the court granted in part plaintiffs' Motion For A
2 Preliminary Injunction regarding defendants' use of pepper spray at GHS.

3 5. Effective February 1, 1995, defendant Bob Williams resigned his position as
4 Superintendent of GHS.

5 6. On June 1, 1995, Art Schmidt began his employment as the new
6 Superintendent at GHS.

7 7. On September 11, 1995, the Court entered a Stipulation and Judgment
8 Resolving Certain Claims and Continuing Trial On the Remaining Ones. Plaintiffs' health,
9 treatment and rehabilitation claims were the only claims left unresolved by the parties'
10 original Stipulation and Judgment. To assist in the resolution of those claims the State
11 defendants agreed to take steps to improve practices in the following program areas:
12

- 13
- 14 (a) intake and orientation procedures;
 - 15 (b) individual treatment plans;
 - 16 (c) use of intensive management unit;
 - 17 (d) individual counseling;
 - 18 (e) vocational opportunities;
 - 19 (f) de-escalation skills;
 - 20 (g) treatment of violent offenders;
 - 21 (h) life skills programs, and
 - 22 (i) health care services.

23
24 (See paragraph II.C.2(b) of the parties' original Stipulation & Judgment)

25 8. This Supplemental Judgment finally resolves plaintiffs' health, treatment and
26 rehabilitation claims. It is fair, reasonable, and adequate to protect the class in accordance
27

1 with the standards of Fed. R. Civ. P. 23(e).

2 9. For purposes of this Judgment, the following definitions shall apply.

3 a. Documents: The term "documents" as used herein includes, without
4 limitation, correspondence, telegrams, cables, teletype messages, videotapes, mailgrams,
5 reports, records, schedules, diaries, court dockets, court files and papers found therein,
6 notes, logs, summaries, memoranda, memoranda of telephone conversations, photographs,
7 depictions, sketches, renderings, mechanical and electronic records of conversations or of
8 statements or of telephone conversations, and all other printed, typewritten, written records,
9 or taped matter of any kind of description. The term "documents" does not include materials
10 subject to the attorney/client privilege or any other privilege pursuant to federal or state laws.

11 b. Defendants: Defendants include the named defendants in this action
12 and their supervisors, officers, agents, successors, employees and assigns. The "State
13 defendants" as used herein refers to Lyle Quasim, Sid Sidorowicz and Art Schmidt.

14 c. Lock-up: "Lock-up" or "lock-up unit" includes the IMU now in Fir
15 and Poplar cottages and any successor unit intended to house youth with disciplinary and/or
16 behavioral problems.

17 d. Law: The term "law" refers to all state and federal constitutions,
18 statutes, and regulations, as well as case law, that apply to the services referred to herein.

19 OBLIGATIONS OF THE STATE DEFENDANTS

20 10. The State defendants shall, by no later than June 1, 1996, retain consultants
21 with expertise in the field of mental health services for juvenile offenders (hereafter mental
22 health consultants) to evaluate and make recommendations regarding the mental health
23 services available for juveniles incarcerated at GHS, including especially the mental health
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1 services for juveniles with acute mental illness, to insure that all youth at GHS are provided
2 access to treatment programs and opportunities that address their individual treatment needs
3 and/or behavior problems as required by relevant state and federal law and the terms of this
4 Supplemental Stipulation and Judgment. The State defendants shall require the mental health
5 consultants to submit a written report of their assessment, including findings and
6 recommendations, which shall be due to the Juvenile Rehabilitation Administration (JRA) by
7 June 30, 1996.
8

9 11. The State defendants agree to, within thirty days after receiving the report of
10 the mental health consultants, but in any event by no later than September 15, 1996, develop
11 a plan in response to the findings and recommendations of the mental health consultants
12 referred to in the preceding paragraph. The plan shall contain dates by which specific tasks
13 shall be performed to implement JRA's response to the consultants' findings and
14 recommendations as well as this Supplemental Stipulation and Judgment. This remedial plan
15 shall ensure that the State defendants satisfy their obligations under the terms of this
16 Supplemental Stipulation and Judgment and comply with relevant legal standards regarding
17 the provision of mental health services to youth at GHS.
18

19 12. Defendants shall submit their remedial plan to plaintiffs' counsel for their
20 review as soon as possible after its completion, but in any event by no later than September
21 30, 1996. Plaintiffs' counsel shall review defendants' remedial plan by no later than 30 days
22 after its receipt. If the plan fails to satisfy plaintiffs that the State defendants will meet their
23 obligations under the terms of this Supplemental Stipulation and Judgment or comply with
24 relevant legal standards regarding the provision of mental health services to youth at GHS,
25 plaintiffs may object to defendants' implementation of the plan, in whole or in part.
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13. In the event that the plaintiffs object to any of the terms of the State's remedial plan, the Court-Appointed Monitor Orlando Martinez, shall serve as a mediator to assist in the resolution of disputed areas. Any disputes not resolved informally through the intervention of the Court Monitor in this manner shall be resolved in accordance with ¶ II.F.8 of the parties' original Stipulation and Judgment, incorporated herein by reference.

14. The State defendants shall adhere to all relevant state and federal laws with respect to the reasonable accommodation of the mental disabilities of youth at GHS.

15. The State defendants shall provide access to appropriate mental health services to residents of Green Hill School as required by law.

16. The State defendants shall not use lock-up for juveniles with acute mental illness in any manner that is inconsistent with state or federal law.

17. The State defendants shall ensure that mental health screenings are performed within a reasonable time after residents are transferred to or retained in lock-up pursuant to GHS policy No. 35, or any successor policy, for periods greater than 72 hours. The State defendants shall, based on these screenings, make appropriate referrals for mental health services to ensure that such residents placed in lock-up are provided access to mental health services required by law.

18. All juveniles requesting to be seen for mental health concerns shall have access to qualified staff who shall evaluate the need for further mental health consultation, and shall, consistent with standards of care required by law, have access to appropriate treatment in a timely manner.

19. The State defendants shall administer stimulants, tranquilizers, or psychotropic drugs only if medically appropriate and only as consistent with state and federal law.

1 20. All refusals by GHS residents for mental health treatment provided by GHS
2 medical or mental health staff shall be documented by staff and confirmed in writing by the
3 resident.

4 21. The State defendants agree to, by no later than August 15, 1996, develop and
5 implement a revised policy for the administration of psychotropic medications that is
6 consistent with applicable law.

7 22. Defendants shall submit their medications policy referred to in the preceding
8 paragraph to plaintiffs' counsel for their review as soon as possible after its completion, but
9 in any event by no later than August 30, 1996. Plaintiffs' counsel shall review the policy by
10 no later than 30 days after its receipt. If plaintiffs' counsel believe the policy is not
11 consistent with applicable law, plaintiffs may object to defendants' continued implementation
12 of the policy, in whole or in part.

13 23. In the event plaintiffs object to any of the terms of the State's psychotropic
14 medications policy, the Court-appointed Monitor shall serve as a mediator to assist in the
15 resolution of disputed areas. Any disputes not resolved informally through the intervention
16 of the Court Monitor in this manner shall be resolved in accordance with ¶ II.F.8 of the
17 parties' original Stipulation and Judgment.

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21 **IMPLEMENTATION, MONITORING AND REPORT REQUIREMENTS**

22 24. During the duration of this Supplemental Stipulation and Judgment, plaintiffs'
23 attorneys, plaintiffs' experts, and the Court Monitor shall have reasonable on-site access to
24 GHS residents and staff, and to all discoverable documents of the State defendants.

25 25. If available, Orlando Martinez, the Court Monitor of the parties' original
26 Stipulation and Judgment, shall perform all monitoring responsibilities under this
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Supplemental Stipulation and Judgment. If he is not available at any time during the duration of this Supplemental Stipulation and Judgment, another Monitor with expertise in the field of juvenile corrections shall be selected and approved by both plaintiffs' counsel and the State defendants. The Monitor shall consult with defendants as requested and may assist in mediating disputes between the plaintiffs and the State defendants as specified below.

26. The State defendants agree to submit every six months a written report to plaintiffs' attorney and the Monitor outlining the steps taken to comply with this Supplemental Stipulation and Judgment.

27. The Monitor shall inspect GHS at least once every six months for the duration of Court jurisdiction over this matter, but may inspect more often with the agreement of the State defendants, which shall not be unreasonably withheld, or to assist the State defendants in resolving problems as requested by the State defendants. The Monitor need not inspect every six months if the Monitor, plaintiffs' counsel, and the State defendants agree that such inspections are not necessary. Inspections by the Monitor as required by this paragraph shall be scheduled at the same time as the on-site inspection required by the parties' first Stipulation and Judgment.

28. The Monitor shall issue a written report within 30 days of any inspection describing: (1) The State defendants' progress in achieving compliance with this Supplemental Stipulation and Judgment and its implementation plans, and (2) whether the State defendants are complying with this Supplemental Stipulation and Judgment. The Monitor shall provide copies of the report to the Court and the parties. Plaintiffs and the State defendants may respond to any report filed by the Monitor.

29. The parties will attempt to resolve any dispute arising under this Supplemental

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Stipulation and Judgment informally through their attorneys. If these efforts fail, paragraphs 30 and 31 below shall be used to resolve disputes between the parties.

30. Both the State defendants and plaintiffs may raise questions of compliance with this Supplemental Stipulation and Judgment concerning the obligations of the State defendants with the Monitor. The Monitor shall attempt to informally resolve any questions raised. If the Monitor is unable to resolve any question informally, either party may ask the Monitor to make formal findings of fact and recommendations to resolve the question. Whenever requested to do so, the Monitor shall make findings of fact and recommendations as requested. Either party may respond to the Monitor's findings of fact.

31. If plaintiffs' counsel and the State defendants are unable to resolve disputes regarding compliance with this Supplemental Stipulation and Judgment with the Monitor in the manner provided in the preceding paragraph, they may seek Court review of the compliance issue. A party may seek Court review, without complying with paragraph 30 above, if compliance would cause undue delay or threaten imminent harm to a party.

32. The State of Washington acting on behalf of the State defendants shall be responsible for the reasonable expenses of the Monitor.

33. If there is a dispute with respect to facts relating to a possible violation of this Stipulation and Judgment by any party, the Federal Civil Rules of discovery shall apply.

DAMAGES AND ATTORNEYS' FEES

34. This Supplemental Stipulation and Judgment does not resolve, adjudicate or bar damages claims of any plaintiffs or class members. Plaintiffs' claims for costs and attorneys' fees are reserved for determination by the court at a later date.

TERMINATION OF FEDERAL COURT JURISDICTION

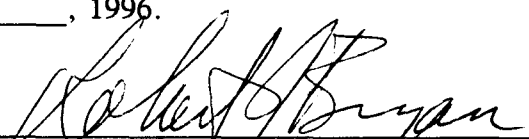
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35. This Court has continuing jurisdiction to enforce the terms of this Supplemental Stipulation and Judgment for four years following the date of its entry by this Court. At the conclusion of this period the Court's jurisdiction shall terminate, this Supplemental Stipulation and Judgment shall be vacated, and this case dismissed.


MODIFICATION

36. The court may modify this Supplemental Stipulation and Judgment only upon (1) the agreement of the parties with the approval of the Court; (2) or upon a motion to modify provided that the party seeking the modification demonstrates that a significant and unforeseen or unforeseeable change in the law or in the facts warrants revision of this Stipulation and Judgment, and that the proposed modification is suitably tailored to the changed circumstances.


DATED this 5 day of Nov, 1996.

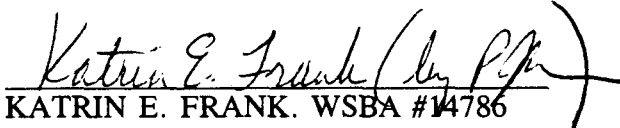

THE HONORABLE ROBERT J. BRYAN
United States District Court Judge

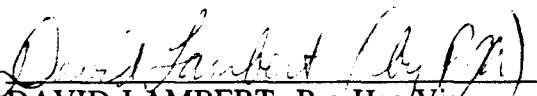
Copy Received; Approved for Entry:


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