

**IN THE UNITED STATES DISTRICT COURT  
 FOR THE NORTHERN DISTRICT OF ALABAMA  
 WESTERN DIVISION**

04 JUN 24 PM 3: 07

U.S. DISTRICT COURT  
 N.D. OF ALABAMA

*KL*

**ENTERED  
 JUN 24 2004**

ANTONIO LEATHERWOOD, ERIC )  
 HOWARD, JERRY SANFORD, JOHN )  
 LEVINS, MICHAEL PATRICK, and, )  
 individually and on behalf of all present and )  
 future HIV-positive inmates in the Limestone )  
 Correctional Facility in Capshaw, Alabama, )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 DONAL CAMPBELL, Commissioner of the )  
 Alabama Department of Corrections, RONALD )  
 CAVANAUGH, Director of Treatment, Alabama )  
 Department of Corrections, BILLY MITCHEM, )  
 Warden of Limestone Correctional Facility, and )  
 DAVID WISE, Deputy Warden, )  
 )  
 Defendants. )

CV 02-BE-2812-W

**MEMORANDUM OPINION AND ORDER**

This matter is before the court following a hearing before the magistrate judge to determine the fairness, reasonableness, and the adequacy of the proposed settlement and the joint motion of the parties for preliminary approval of the settlement agreement (hereinafter “Joint Motion”) (doc. 148) filed by the parties to this action. The court has carefully considered *de novo* the “Joint Motion;” the court’s orders of May 7, 2004, granting the joint motion of the parties to adopt the Settlement Agreement and provide for a Special Master (doc. 153) and directing that notice of the proposed settlement be given to members of the certified class (doc. 156);<sup>1</sup> the submissions concerning the fairness hearing; the report and recommendation of the

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<sup>1</sup> This notice provided the class members with the terms of the proposed settlement agreement of the parties; notice of their right to object to the same; and the date, time, and place of the fairness hearing.

magistrate judge concerning the fairness hearing; the defendants' limited objection to the report and recommendation of the magistrate judge; the actual notice to the class members (doc. 154);<sup>2</sup> a document captioned "A Cry For Help From the H.I.V. Inmates at the Limestone Corr. Facility;"<sup>3</sup> and the parties agreement to entry of this order (doc. 152). Having reviewed and considered these items, along with the remainder of the file, the court is of the opinion that the magistrate judge's findings are due to be and are hereby adopted. Moreover, his conclusions of law and his recommendation that the proposed settlement should be adopted are accepted.

Accordingly, it is hereby **ORDERED**:

1. The Order of May 7, 2004, granting the joint motion of the parties to adopt the Settlement Agreement and provide for a Special Master (doc. 153) is reaffirmed and incorporated herein and
  - a. The Joint Motion for Adoption of the Settlement Agreement (doc. 161) is **GRANTED** and the terms thereof are hereby adopted and incorporated herein;
  - b. In accordance with the Settlement Agreement, during the terms of the Agreement, the court shall retain jurisdiction to enforce the terms thereof;
  - c. The Settlement Agreement shall automatically terminate two years after this court has granted final approval of its terms; and,
  - d. The court hereby **APPOINTS** Magistrate Judge John E. Ott as Special Master under the Settlement Agreement.
2. The court has considered the "limited" objection of the defendants and the submission of the "H.I.V. inmates" in this matter and finds that they do not alter the court's determination that the proposed settlement should be adopted.
3. The terms and provisions of this court's order of May 7, 2004, have been carried out and satisfied by the parties to this action.
4. The Settlement Agreement previously filed in this action and the terms set forth therein are found and determined to be fair, reasonable, and adequate, and are hereby

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<sup>2</sup> The court notes that the objections of certain class members were addressed by the magistrate judge in the report and recommendation that was filed after the fairness hearing. (Doc. 163 at pp. 23-25).

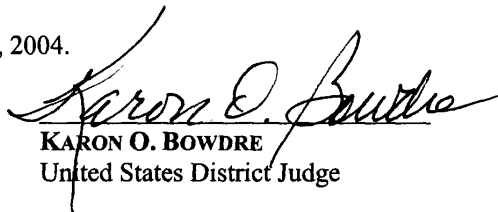
<sup>3</sup> This document was received June 16, 2004, and it chronicles the struggles of certain inmates at the Limestone facility.

**APPROVED.**

5. The court finds that the manner and method used to provide notice to the class members were fair and reasonably calculated to provide actual notice to the class members and complied with all the requirements of FEDERAL RULE OF CIVIL PROCEDURE 23(e) and due process.

The Clerk is **DIRECTED** to serve a copy of this memorandum opinion and order upon counsel of record and the objecting plaintiffs. The objecting plaintiffs are to be served by posting this "Memorandum Opinion and Order" in accordance with the notification process previously issued in this case. (*See* Doc. 156).<sup>4</sup> The defendants are hereby **DIRECTED** to post the "Memorandum Opinion and Order" in the same manner as was done regarding the Settlement Notice.

DONE, this the 24<sup>th</sup> day of June, 2004.

  
KARON O. BOWDRE  
United States District Judge

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<sup>4</sup> The "Memorandum Opinion and Order" shall be posted in Dorm 6, Dorm 7, the Health Care Unit, and all other facilities used to house HIV prisoners at Limestone Correctional Facility within twenty-four hours from the date it is entered.