



PC-AZ-009-002

1 IDS96-0263
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12 IN THE UNITED STATES DISTRICT COURT
 13
 14 FOR THE DISTRICT OF ARIZONA

15	JOHN DOES 1-5,)	No. CIV 96-0486 PHX WFN (VAM)
16)	
17	Plaintiff,)	(Sealed Case)
18)	
19	vs.)	
20)	
21	TERRY L. STEWART,)	
22)	
23	Defendant.)	
24)	

SETTLEMENT AGREEMENT

I. Definitions

1. "ADOC" means the Arizona Department of Corrections.
2. "PS" means Protective Segregation.
3. "GP" means General Population.
4. "Court" means the United States District Court for the District of Arizona.
5. "Lawsuit" means John Does #1-5 v. Terry Stewart, CIV96-0486- PHX-WFN (VAM).
6. "Plan" means the "Proposed Remedial Plan by the Arizona Department of Correction Re: Protective Segregation Issues" filed on February 10, 2000. The Plan is expressly made a part of this

1 Settlement Agreement as if a copy of it were attached hereto.

2 7. "Monitor" means Steven J. Martin, Esq., of Austin, Texas.

3 II. INTRODUCTION

4 Starting in 1995, numerous inmates housed in PS units within ADOC
5 began to file individual lawsuits against ADOC seeking to enjoin it
6 from implementing what they alleged was a plan to transfer them to GP
7 *en masse*. The plaintiff inmates claimed that such transfers would
8 have jeopardized their safety. On December 21, 1995, the Court stayed
9 and consolidated all such individual lawsuits, and appointed counsel
10 for the inmates. On February 22, 1996, the inmates' counsel filed a
11 class action lawsuit on behalf of all PS inmates incarcerated within
12 ADOC. On April 17, 1996, the Court certified a class consisting of
13 "all protective segregation inmates who are now or in the future may
14 be classified from protective segregation back to GP"

15 On December 6, 1996, the Court issued its "Memorandum Opinion and
16 Order" containing "Findings and Fact and Conclusions of Law" in
17 support of its decision permanently enjoining ADOC from transferrin
18 PS inmates to maximum security GP yards. Subsequently, the parties
19 entered into a stipulation delaying imposition of a permanent
20 injunction to allow ADOC to submit a plan for safeguarding inmates in
21 need of protection. ADOC filed its Plan on February 10, 2000.

22 The parties are in agreement that if ADOC is able to successfully
23 implement the various policies, procedures, and commitments contained
24 in the Plan, it will have substantially addressed and resolved those
25 issues raised in the Lawsuit or otherwise identified by the Court.

26

1 NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

2 III. CONDITIONAL DISMISSAL OF THE LAWSUIT

3 Upon execution of this Settlement Agreement, the parties will
4 jointly move the Court to enter an Order conditionally dismissing the
5 Lawsuit pursuant to Federal Rule of Civil Procedure 41(a)(2), and for
6 placement of the Lawsuit on the Court's inactive docket, during which
7 time the Court will continue to retain jurisdiction over the Lawsuit
8 until it issues an Order dismissing the Lawsuit with finality. The
9 Lawsuit shall be subject to reinstatement only upon the terms and
10 conditions set forth below.

11 IV. MONITORING OF THE SETTLEMENT AGREEMENT, TIME FRAME FOR
12 SUBSTANTIAL COMPLIANCE, AND TERMINATION OF THE LAWSUIT

13 A. Upon execution of this Settlement Agreement, the parties
14 will jointly move to appoint Steven J. Martin, Esq., of Austin, Texas,
15 to examine and report to the Court on ADOC's compliance with the terms
16 set forth in this Settlement Agreement and the Plan. The Monitor's
17 fees and costs will be paid by ADOC pursuant to a separate agreement
18 entered into by ADOC and the Monitor. The Monitor shall be empowered
19 to make any and all reasonable inquiries which, in his sole discretion,
20 are necessary to ascertain whether ADOC is implementing those policies,
21 procedures, and commitments that pertain to PS and potential PS
22 inmates as are outlined in the Plan. ADOC shall make all reasonable
23 efforts to respond to the Monitor's inquiries in a timely and complete
24 manner. In order to facilitate such inquiries, ADOC shall fully
25 cooperate with the Monitor and will allow him to:

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1. Make announced or unannounced visits to any of its prison facilities and to its central headquarters offices;
2. Access inmate and/or other files, records, data and other documents, which ADOC shall make available to the Monitor or compile at his request;
3. Speak with inmates and ADOC personnel;
4. Attend meetings at prison facilities and/or central headquarters offices that deal with issues pertaining to PS and potential PS inmates.

To further facilitate the Monitor's duties, ADOC shall, on a monthly basis, provide the Monitor with an updated list of PS inmates setting forth their names, inmate numbers, locations, PS status (voluntary or involuntary), and classification scores. ADOC shall also provide a copy of each such list to the inmates' counsel, together with copies of other documents that are routinely furnished to the Monitor, with the exception of PS investigative files.

B. The parties acknowledge that the Monitor has already toured ADOC's central headquarters offices and those prison units that house PS inmates, and the parties anticipate that the Monitor will again inspect ADOC facilities before September 1, 2000, in order to file his first quarterly report as set forth below.

C. The monitoring period will begin on September 1, 2000, and last for eighteen months, unless sooner terminated or extended pursuant to the terms of this Settlement Agreement or order of the Court. At any point in time during months twelve through eighteen of the monitoring period, the Monitor may report to the Court that ADOC

1 has achieved "substantial compliance" with the commitments made in the
2 Plan, and that there is a reasonable expectancy that such substantial
3 compliance will continue indefinitely into the future. Based upon
4 such a report, the Monitor will recommend to the Court that the
5 Lawsuit be dismissed with finality. The parties may comment upon
6 and/or object to any of the Monitor's reports.

7 D. The Monitor will, for the duration of his monitoring, file
8 quarterly reports with the Court on ADOC's compliance with the Plan
9 and any recommendations he might have regarding compliance. The
10 Monitor's first such quarterly report will be filed on or before
11 December 1, 2000.

12 E. "Substantial compliance" with the terms of the Plan will
13 fully satisfy this Settlement Agreement. Isolated and/or
14 unintentional incidents will not constitute non-compliance.

15 F. In the event this action goes to trial, nothing contained
16 in this Settlement Agreement may be introduced as evidence.

17 DATED this 13th day of July, 2000.

18 For the Plaintiffs:
19 OSBORN MALEDON, P.A.

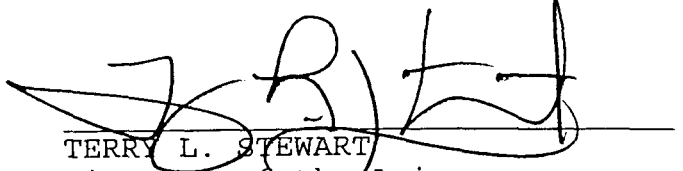
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21
22 Debra A Hill
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For the Defendant:
JANET NAPOLITANO
THE ATTORNEY GENERAL
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26 Bruce L. Skolnik
BRUCE L. SKOLNIK
Assistant Attorney General
Attorney for Terry L. Stewart

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APPROVED AS TO FORM AND CONTENT:



TERRY L. STEWART
Director of the Arizona
Department of Corrections