

1 KENDALL BRILL & KELLY LLP
2 Bert H. Deixler*
3 *bdeixler@kbfirm.com*
4 Laura W. Brill*
5 *lbrill@kbfirm.com*
6 Randall L. Jackson*
7 *rjackson@kbfirm.com*
8 10100 Santa Monica Blvd., Suite 1725
9 Los Angeles, California 90067
10 Telephone: 310.556.2700
11 Facsimile: 310.556.2705
12 *Admitted Pro Hac Vice

13 Attorneys for Plaintiff

14 Mark Brnovich
15 Attorney General
16 Paul E. Carter
17 Assistant Attorney General
18 State Bar of Arizona No. 010623
19 1275 W. Washington Street
20 Phoenix, Arizona 85007-2926
21 Telephone: (602) 542-1610
22 Fax: (602) 542-7670
23 E-mail: paul.carter@azag.gov

24 Attorneys for Defendants

25 **UNITED STATES DISTRICT COURT**
26 **DISTRICT OF ARIZONA**

27 STEPHEN LOUIS RUDISILL,
28 Plaintiff,

v.

CHARLES RYAN, Director, Arizona
Department of Corrections; ROBERT
PATTON, Division Director of
Offender Operations, Arizona
Department of Corrections; THERESE
SCHROEDER, Warden, Arizona State
Prison Complex-Tucson; DANIAL
LUNDBERG, Deputy Warden, Arizona
State Prison Complex-Tuscon, in their
official and individual capacities, AND
DOES 1-100, INCLUSIVE,

Defendants.

Case No. CV 13-01149-TUC-CKJ
[Honorable Cindy K. Jorgenson]

STIPULATION FOR ORDER

1 Plaintiff Stephen Louis Rudisill (“Plaintiff”) and Defendants Charles Ryan,
2 Carson McWilliams, Therese Schroeder, Danial Lundberg, Alfred Ramos, and
3 Panann Days¹ (“Defendants”) enter into this Stipulation for Order (“Stipulation”) as
4 follows:

5 **I. INTRODUCTION**

6 1. Plaintiff is a prisoner in the custody of the Arizona Department of
7 Corrections (“ADC”), an agency of the State of Arizona, and is presently housed at
8 the Arizona State Prison Complex-Tucson.

9 2. Defendants are Charles Ryan, Director of the ADC, Carson
10 McWilliams, Division Director of the ADC, Therese Schroeder, former Warden of
11 the Arizona State Prison Complex-Tucson, Danial Lundberg, former Deputy
12 Warden of the Arizona State Prison Complex-Tucson, Alfred Ramos, current
13 Warden of the Arizona State Prison Complex-Tucson, and Panann Days, current
14 Deputy Warden of the Arizona State Prison Complex-Tucson .

15 3. The purpose of this Stipulation is to settle the above captioned case and
16 to ensure compliance with the stipulated terms provided herein. This Stipulation
17 governs or applies to the 10 ADC complexes: Douglas, Eyman, Florence, Lewis,
18 Perryville, Phoenix, Safford, Tucson, Winslow, and Yuma.

19 4. Defendants deny all of the allegations in the Complaint filed in this
20 case. This Stipulation does not constitute and shall not be construed or interpreted
21 as an admission of any wrongdoing or liability by any party.

22

23

24

25 ¹ Alfred Ramos has succeeded Ms. Schroeder as the Warden of the Arizona
26 State Prison Complex-Tucson, and Panann Days has succeeded Mr. Lundberg as the
27 Deputy Warden of the Arizona State Prison Complex-Tucson. Pursuant to Rule
28 25(d), Mr. Ramos and Ms. Days are now defendants in this action solely in their
official capacities.

1 **II. SUBSTANTIVE PROVISIONS**

2 **A. Housing**

3 **1. Policy**

4 5. Defendants shall develop and institute policies, procedures, and
5 practices necessary to implement an “Integrated Housing Program” (“IHP”). The
6 purpose of the IHP is to foster racial equality among inmates by assigning inmates
7 to integrated housing placements, with the intention that doing so will enhance
8 rehabilitation and security interests.

9 6. Pursuant to the IHP, Defendants shall assign inmates to the first
10 available and appropriate bed vacancy.

11 7. Inmates shall be assigned to a bed without regard to their race,
12 ethnicity, or national origin (except as allowed in paragraph 8). Additionally,
13 individual housing assignments shall be made based on the principles and criteria
14 outlined in Department Order 704, other available documentation and individual
15 case factors, and each inmate’s “Integrated Housing Code” (defined below). In light
16 of the foregoing, housing assignments shall be determined in a manner that shall
17 ensure that the safety, security, treatment, and rehabilitative needs of the inmate are
18 adequately considered, as well as the safety and security of the public, prison staff,
19 and the prison complexes.

20 8. Any consideration of race in housing assignments shall be permitted
21 only when narrowly tailored to address a compelling state interest, and even then
22 may be evaluated only as one factor in connection with a comprehensive and
23 objective assessment of any inmate’s individual circumstances. As a result, an
24 inmate’s race shall not be used as a primary determining factor for housing
25 assignments.

1 **2. Integrated Housing Code**

2 9. In implementing the IHP, each inmate will be assigned an “Integrated
3 Housing Code” (“IHC”). The IHC will be used to identify, track, and monitor an
4 inmate’s eligibility to integrate when being housed.

5 10. The IHCs that may be assigned to an inmate are as follows:

6 (a) **RE (“Racially Eligible”)**. An inmate that can live with members of
7 any race.

8 (b) **RP (“Restricted Partially”)**. An inmate who may be considered
9 ineligible to live with inmates of a particular race.

10 (c) **RO (“Restricted to Own”)**. An inmate who can live only with a
11 member of the same race.

12 (d) **RT (“Restricted Temporarily by Custody”)**. An inmate with
13 some information to indicate that RP or RO may be the appropriate
14 code, but insufficient information or documentation exists for the
15 designated custody supervisor to make a final objective determination
16 regarding the inmate’s ability to integrate, and which will be made
17 pending further review.

18 11. All inmates shall be coded **RE**, unless objective and documented case
19 factors dictate otherwise. Ineligibility to live with someone of another race (**RP** or
20 **RO**) could be based on a racially motivated incident, where racial beliefs or
21 attitudes were the cause of the incident. Such ineligibility may also be based on
22 documented racial hostility or animosity, which may lead to the conclusion that an
23 integrated assignment would create a risk of violence. However, for the avoidance
24 of doubt, the existence of a prior racially motivated incident or documented racial
25 hostility or animosity shall not automatically disqualify an inmate from being coded
26 **RE**. The code **RT** may be used when conflicting information arrives with the
27 inmate or when questionable statements or behavior are observed that are not
28

1 consistent with an inmate's claim of eligibility. The code **RT** is temporary and shall
2 be changed within 21 days based on additional information and documentation.

3 12. An inmate's IHC will be assigned only based on individual objective
4 and documented case factors, as well as a personal interview of the inmate.

5 13. For any inmate who is RP or RO, the inmate's IHC must be reassessed
6 at least once per year.

7 14. A contemporaneous and permanent electronic record must be created
8 articulating in detail the reasons for every IHC assignment and/or reassessment that
9 results in an inmate being coded as **RP, RO, or RT**.

10 **3. Implementation**

11 15. The IHP will be implemented at the 10 ADC complexes in five phases
12 on the following schedule:

<u>Phase</u>	<u>Dates</u>	<u>Units</u>
I	1/1/16-1/1/17	ASPC-Tucson, Santa Rita Unit ASPC-Florence, North Unit Yard II
II	1/1/17-3/1/18	All minimum/medium custody female units All minimum/medium protective custody units All dormitory sex offender units
III	3/1/18-6/1/19	All minimum/medium custody general population units
IV	6/1/19-6/1/20	All maximum custody units
V	6/1/20-6/1/21	All close custody units

23 16. Inmates arriving at the ADC's Reception Center who meet the custody
24 classification and specific unit criteria shall be moved directly to an integrated unit,
25 as set forth in paragraph 15, if an appropriate bed is available.

26 17. The ADC shall develop and implement inmate programming,
27 incentives for compliance with the IHP, and consequences for non-compliance.
28

1 (a) Before being moved into an integrated unit, inmates previously
2 housed in a non-integrated unit will be required to complete
3 programming such as Cultural Diversity, Socialization Skills, and
4 Decision-Making Skills.

5 (b) ADC will institute incentives for inmate compliance in units at the
6 time of implementation set forth in paragraph 15. Those incentives
7 may include, but will not be limited to: additional property that may
8 include MP3 players or electronic games; access to a kiosk that would
9 allow for the download of music, games, etc.; additional visitation
10 privileges to include food visits; restoration of previously denied
11 privileges, restoration of release credits; additional recreation to include
12 special events, such as barbecues, movie nights, sporting events, etc.;
13 assignment to premium jobs, such as IGAs, ACI, fire crews, etc.; and
14 the opportunity to take additional educational/rehabilitation courses,
15 such as computer science, bricklaying, small engine repair, wood-
16 working/carpentry, and plumbing/pipe-fitting.

17 (c) ADC will institute policies for consequences for inmate non-
18 compliance, which will be modeled upon the process outlined in D.O.
19 704.09 (“Refusal To House Procedures”) or a substantially similar
20 process or discipline matrix specific to the IHP. Notwithstanding the
21 foregoing, ADC will not be required to place non-compliant inmates in
22 detention unless deemed necessary by ADC in its sole discretion.

23 18. The ADC will communicate with inmates at all levels so that they
24 understand the IHP, as well as the expectations of compliance and consequences for
25 non-compliance.

26 19. The ADC shall develop and implement correctional officer training and
27 education for the purpose of effectively implementing the IHP. The ADC shall also
28

1 develop internal controls and oversight with respect to each integrated unit in order
2 to monitor IHP compliance.

3 **4. Maintenance Of Records**

4 20. The ADC shall retain all records created as part of the IHP's
5 implementation ("IHP Records") at least until such time as the Stipulation is
6 terminated.

7 21. The IHP Records shall include, at a minimum, the following:

8 (a) Documents identifying each inmate, including the inmate's race.

9 (b) Documents identifying the housing assignment for every inmate,
10 including the identity and race of any other inmate assigned to the same
11 cell or double-bunked bed.

12 (c) Documents relating to each inmate's IHC, including in connection
13 with any assessment and/or reassessment of the inmate's IHC (as well
14 as the date of any such assessment and/or reassessment).

15 (d) All IHP-related training, education, and program materials, as well
16 as documents identifying the inmates and correctional officers
17 attending all such sessions.

18 (e) Records evidencing the implementation of incentives and
19 consequences for inmates to encourage participation in an integrated
20 housing unit, including evidence of disciplinary proceedings related to
21 the IHP.

22 (f) Incident reports or other records evidencing incidents of violence or
23 threats of violence in a unit before and after implementation of the IHP
24 at that unit.

25 (g) Records related to specific initiatives, training, or education to
26 reduce violence at units where the IHP has been implemented.

27

28

1 (h) Any inmate grievance contesting any housing decision made by the
2 ADC arising out of race or ethnicity.

3 **B. Employment**

4 **1. Policy**

5 22. Defendants shall develop and institute policies, procedures, and
6 practices necessary to implement a “Nondiscriminatory Employment Program”
7 (“NEP”). The purpose of the NEP is to foster racial equality among inmates by
8 employing inmates, and by having inmates provide employment services to others,
9 in a nondiscriminatory manner and without regard to race (except as allowed in
10 paragraph 26), with the intention that doing so will enhance rehabilitation and
11 security interests.

12 23. Pursuant to the NEP, inmates shall be assigned to jobs and/or other
13 work assignments with consideration of the inmate’s preference, job requirements,
14 qualifications, experience, background, classification, institutional adjustment, and
15 prison record. ADC may consider an inmate’s race or ethnicity only where
16 consistent with the considerations of paragraph 26.

17 24. Job openings in a unit shall be noticed in a manner to reach all inmates
18 in the unit, unless specific security considerations, approved in writing by the unit
19 deputy warden, dictate otherwise. The notice shall provide a reasonable time and
20 opportunity for inmates to apply for the position. ADC will take reasonable efforts
21 to provide education and training that would allow inmates to become qualified for
22 additional work opportunities in the prison or in the community upon release.
23 Nothing in this Stipulation, however, shall require ADC to train unskilled inmates in
24 any particular skill, occupation, or profession.

25 25. Certain jobs may require the provision of employment services by one
26 inmate to other inmates (such as barbers, pushers or porters). The present practice,
27 not ADC policy, is that these services are provided in a segregated manner. As units
28

1 are phased into the NEP according to the schedule adopted in paragraph 28, ADC
 2 shall adopt policies and implement training and education designed to end this
 3 practice. Additionally, incentives and consequences for the inmates, which can
 4 include reassignment from the NEP unit, will be established and imposed as the unit
 5 is phased into NEP.

6 26. Any consideration of race in connection with employment assignments
 7 or the provision of inmate employment services shall be permitted only when
 8 narrowly tailored to address a compelling state interest, and even then may be
 9 utilized only as one factor in connection with a comprehensive and objective
 10 assessment of any individual inmate employment assignment or service. As a result,
 11 an inmate's race shall not be used as a primary determining factor for employment
 12 assignments or services. If ADC does choose to use race in making any
 13 employment assignment, that decision shall be documented in a form to be mutually
 14 agreed and sent to Plaintiff's expert(s).

15 27. The applicable provisions of this Stipulation shall supplement
 16 Department Order 903.01-1.7. To the extent Department Order 903.01-1.7 is
 17 inconsistent with this Stipulation, the provisions of this Stipulation shall control.

18 2. Implementation

19 28. The NEP will be implemented at the 10 ADC complexes in five phases
 20 on the following schedule:

<u>Phase</u>	<u>Dates</u>	<u>Units</u>
I	1/1/16 -1/1/17	ASPC-Tucson, Santa Rita Unit ASPC-Florence, North Unit Yard II
II	1/1/17-3/1/18	All minimum/medium custody female units All minimum/medium protective custody units All dormitory sex offender units
III	3/1/18-6/1/19	All minimum/medium custody general population units

1	IV	6/1/19-6/1/20	All maximum custody units
2	V	6/1/20-6/1/21	All close custody units

3
4 29. The ADC shall develop and implement inmate programming,
5 incentives for compliance with the NEP, and consequences for non-compliance.

6 30. The ADC will also communicate with inmates at all custody levels so
7 that they understand the NEP, as well as the expectations of compliance and
8 consequences for non-compliance.

9 31. The ADC shall develop and implement correctional officer training and
10 education for the purpose of effectively implementing the NEP. The ADC shall also
11 develop internal controls and oversight with respect to each integrated unit in order
12 to monitor NEP compliance.

13 **3. Maintenance Of Records**

14 32. The ADC shall retain all records created as part of the NEP's
15 implementation ("NEP Records") at least until such time as the Stipulation is
16 terminated.

17 33. The NEP Records shall include, at a minimum, the following:

18 (a) A record identifying the racial breakdown of each job classification
19 by unit, the race of each inmate who applies for each employment
20 position, and a detailed contemporaneous explanation as to why the
21 inmate was or was not selected for the position.

22 (b) Documents related to the implementation of paragraph 24, such as
23 job notices, job notice disbursement records, job applications,
24 documents related to job assignment decisions, job training and
25 education materials, implementation notices to inmates, notices of job
26 training and education opportunities, racial breakdowns of selection for
27
28

1 job training and education programs, racial breakdowns for successful
2 completion of job training and education programs.

3 (c) All NEP-related training, education, and program materials, as well
4 as documents identifying the inmates and correctional officers
5 attending all such sessions.

6 (d) Records evidencing the implementation of incentives and
7 consequences for inmates to encourage participation in the NEP,
8 including evidence of disciplinary proceedings related to the NEP.

9 (e) Incident reports or other records evidencing incidents of violence or
10 threats of violence in a unit before and after implementation of the NEP
11 at that unit.

12 (f) Records related to specific initiatives, training, or education to
13 reduce violence at units where the NEP has been implemented.

14 (g) Any inmate grievance contesting any employment decision made by
15 the ADC arising out of race or ethnicity.

16 **III. MONITORING**

17 34. Plaintiff's expert(s) shall have reasonable access to the institutions,
18 staff, any relevant contractors, prisoners, and documents necessary to properly
19 evaluate whether Defendants are complying with this Stipulation as set forth herein.
20 Plaintiff's counsel shall have access to any documents shared with Plaintiff's
21 expert(s). The parties shall cooperate so that Plaintiff and his expert(s) and counsel
22 have reasonable access to information reasonably necessary to perform their
23 responsibilities without unduly burdening Defendants. The general goal of such
24 monitoring and oversight shall be to promote and assist Defendants in achieving
25 compliance through collaboration, and to serve as a partner in achieving success.

26 35. Within thirty (30) days of the effective date of this Stipulation,
27 Defendants shall identify and disclose to Plaintiff's counsel and expert(s) a "point
28

1 person” within the ADC who shall be authorized and responsible for managing all
2 requests made by Plaintiff’s experts and counsel. In the same time frame, Plaintiff
3 shall identify and disclose to Defendants an expert or experts who shall be
4 authorized and responsible for managing all requests made by Defendants or the
5 ADC concerning the implementation of this Stipulation. These designations can be
6 changed at any time at the discretion of each party.

7 36. Defendants shall consult in good faith with Plaintiff’s expert(s) in their
8 drafting and development of all policies, procedures, and practices in connection
9 with the IHP and the NEP, and shall provide Plaintiff’s expert(s) with a copy of all
10 proposed policies, procedures, and practices in connection with the IHP and the
11 NEP. Plaintiff’s expert(s) shall then have thirty (30) days to comment on each final
12 proposal, unless a shorter time is set based on individually identified considerations
13 justifying the shorter time frame. Defendants shall consider any comments made by
14 Plaintiff to such policies, procedures, and practices in good faith. Plaintiff’s
15 expert(s) and counsel shall be provided with a copy of the final decision on each
16 proposal within fourteen days of that decision.

17 37. Defendants shall consult in good faith with Plaintiff’s expert(s) with
18 respect to the drafting and development of, and shall provide Plaintiff’s expert(s)
19 with a copy of, all proposed materials to be used in connection with inmate
20 programming and correctional officer training as part of the IHP and/or NEP, as
21 well as a synopsis detailing the manner in which such programming and training
22 will be provided (e.g., the length of the session, the maximum number of persons
23 permitted to attend each session, opportunities for live interaction between the
24 presenter(s) and audience during each session, etc.). Defendants shall also consult
25 in good faith with Plaintiff’s expert(s) with respect to the drafting and development
26 of, and shall provide Plaintiff’s expert(s) with a copy of, the proposed questions to
27 be used as part of the IHC personal interviews. Defendants shall further consult in
28

1 good faith with Plaintiff's expert(s) with respect to the drafting and development of,
2 and shall provide Plaintiff's expert(s) with a copy of, their proposals for the
3 implementation of inmate incentives for compliance and consequences for non-
4 compliance at each unit subject to the IHP and NEP, as well as their proposals for
5 ensuring adequate internal controls and oversight with respect to the ADC's internal
6 monitoring of IHP and NEP compliance. Plaintiff's expert shall then have thirty
7 (30) days to comment on each final proposal with respect to any of the foregoing.
8 Defendants shall consider any comments made by Plaintiff's expert(s) in good faith.
9 Plaintiff's expert(s) and counsel shall be provided with a copy of the final decision
10 on each proposal within fourteen days of such decision.

11 38. Defendants shall also provide Plaintiff's expert(s) with other data,
12 reports, and information (including, but not limited to, the incentives that are being
13 provided to inmates for compliance) on a quarterly basis relating to the IHP, NEP,
14 and their implementation. Defendants and Plaintiff's expert(s) shall collaborate
15 together regarding the precise nature and scope of these disclosures, which shall be
16 agreed upon no later than 120 days after the Stipulation's effective date. For units
17 where the IHP and NEP are or have been implemented, the ADC will on a quarterly
18 basis provide to Plaintiff's expert(s) and Carson McWilliams (or his successor)
19 copies of all grievances (except those related to religion, food or medical care), as
20 well as all incident reports, related to the IHP or NEP or to incidents of violence,
21 threats of violence, or intimidation against an inmate. Mr. McWilliams or his
22 successor will spot check the grievances and incident reports and consult with
23 Plaintiff's expert(s) concerning what is evidenced in the grievances and incident
24 reports related to the implementation of the IHP and NEP.

25 39. Plaintiff's expert(s) shall have the opportunity to conduct on-site
26 inspections ("tour days") of ADC complexes. A tour day shall last for 8 hours and
27 shall be scheduled with at least fourteen (14) days' advance notice given to
28

1 Defendants' designated point person. Plaintiff's expert(s) may elect to split tour
2 days into two four-hour "half days," which may be utilized at different institutions
3 or units on different days. A maximum of three representatives of Plaintiff may
4 attend each tour day. During the tour, these representatives must remain together as
5 a single group unless permitted to separate by ADC officials.

6 40. During tours, Plaintiff's expert(s) shall have access to inmate living
7 areas, work sites, training areas, chow halls, barbering areas, and other areas
8 relevant to the implementation of the IHP and NEP.

9 41. Defendants shall make reasonable efforts to make available for brief
10 interview ADC employees and any employees of any contractor that have direct or
11 indirect duties related to the requirements of this Stipulation who are scheduled for
12 work that day, as well as confidential out-of-cell interviews with inmates. The
13 interviews shall not materially interfere with the performance of the ADC's duties.

14 42. Plaintiff's expert shall also be permitted to observe programming,
15 training, and education classes administered to inmates and officers, observe
16 interviews of inmates that are conducted for purposes of assigning an IHC (upon
17 consent of the inmate), and to administer surveys or focus groups (as specified in
18 this paragraph). Plaintiff's expert(s) may conduct two surveys of inmates and two
19 surveys of corrections officers and administrators each year at each unit for which
20 the IHP and NEP has been or is in the process of being implemented, with one of the
21 two surveys having identified respondents and one having anonymous respondents.
22 At the election of Plaintiff's experts, a focus group can be substituted for one survey
23 of inmates at a unit each year and one survey of corrections officers at a unit each
24 year.

25 43. Plaintiff's expert(s) shall be allowed to conduct tour days at units that
26 are scheduled to phase in the IHP and NEP on the following schedule: Calendar
27 Year 2016 – one tour day; Calendar Year 2017 – two tour days; Calendar Year 2018
28

1 – two tour days; Calendar Year 2019 – four tour days; Calendar Year 2020 – four
2 tour days; Calendar Year 2021 – four tour days; Calendar Year 2022 – four tour
3 days; Calendar Year 2023 – three tour days. The number of tour days in the
4 foregoing schedule is the total number of tour days for all units. Additional tour
5 days can be scheduled upon the agreement of ADC and the Plaintiff’s expert(s). For
6 the avoidance of doubt, any dispute regarding any request by Plaintiff’s expert(s) for
7 additional tour days shall be subject to the dispute resolution procedures described
8 in Section IV, *infra*.

9 44. If implementation problems are identified, the ADC will consult with
10 the Plaintiff’s expert to determine a corrective action plan, which may include
11 changes to policies, procedures, and practices, training and education, individual or
12 small group discussion, or changed incentives for compliance and consequences for
13 non-compliance, as well as other initiatives.

14 45. Any dispute relating to the above-described monitoring activities to be
15 conducted by Plaintiff’s expert(s) will be subject to the dispute resolution
16 procedures described in Section IV, *infra*.

17 **IV. ENFORCEMENT**

18 46. In the event that Plaintiff alleges that Defendants have failed to
19 substantially comply with this Stipulation, or there is any dispute with respect to the
20 monitoring provisions of this Stipulation, Plaintiff’s counsel shall provide
21 Defendants with a written statement describing the alleged non-compliance (“Notice
22 of Non-Compliance”). Defendants shall provide a written statement responding to
23 the Notice of Non-Compliance within thirty (30) calendar days from receipt of the
24 Notice of Non-Compliance and, within thirty (30) calendar days of receipt of
25 Defendants’ written response, counsel for the parties shall meet and confer in a good
26 faith effort to resolve their dispute informally.

27

28

1 47. In the event that a Notice of Non-Compliance cannot be resolved
2 informally, counsel for the parties shall request that Magistrate Judge Charles Pyle
3 mediate the dispute. In the event that Magistrate Judge Pyle is no longer a U.S.
4 Magistrate or is no longer available, the parties shall jointly request the assignment
5 of another Magistrate Judge, or if the parties are unable to agree, the District Judge
6 shall appoint a Magistrate Judge.

7 48. If such dispute has not been resolved through mediation in conformity
8 within this Stipulation within sixty (60) calendar days, either party may file a motion
9 to enforce the Stipulation in the District Court.

10 **V. RESERVATION OF JURISDICTION**

11 49. The parties consent to the reservation and exercise of jurisdiction by the
12 District Court over all disputes between and among the parties arising out of this
13 Stipulation.

14 50. Based upon the entire record, the parties stipulate and jointly request
15 that the Court find that this Stipulation satisfies the requirements of 18 U.S.C. §
16 3626(a)(1)(A) in that it is narrowly drawn, extends no further than necessary to
17 correct the violations of the Federal right, and is the least intrusive means necessary
18 to correct the violations of the Federal right of the Plaintiff. In the event the Court
19 finds that Defendants have not complied with the Stipulation, it shall in the first
20 instance require Defendants to submit a plan, upon which Plaintiff's experts shall
21 have an opportunity to comment and which the Court shall decide whether to
22 approve, to remedy the deficiencies identified by the Court. In the event the Court
23 subsequently determines that the Defendants' plan fails to remedy the deficiencies,
24 the Court shall retain the power to enforce this Stipulation through all remedies
25 provided by law, except that the Court shall not have the authority to order
26 Defendants to construct a new prison or to hire a specific number or type of staff
27 unless Defendants propose to do so as part of a plan to remedy a failure to comply
28

1 with any provision of this Stipulation. In determining the subsequent remedies the
2 Court shall consider whether to require Defendants to submit a revised plan.

3 **VI. TERMINATION OF THE STIPULATION**

4 51. To allow time for the remedial measures set forth in this Stipulation to
5 be fully implemented, the parties shall not move to terminate this Stipulation until at
6 least November 1, 2023.

7 **VII. MISCELLANEOUS PROVISIONS**

8 52. This Stipulation shall become effective as of the date it is approved by
9 the Court.

10 53. Information produced pursuant to this Stipulation shall be governed by
11 the Confidentiality Order (Doc. 71).

12 54. Each Party represents, warrants, and covenants that they have the full
13 legal authority necessary to enter into this Stipulation and to perform the duties and
14 obligations arising under this stipulation.

15 55. This is an integrated agreement and may not be altered or modified,
16 except by a writing signed by all representatives of all parties at the time of
17 modification.

18 56. This Stipulation shall be binding on all successors, assignees,
19 employees, agents, and all others working for or on behalf of Defendants and
20 Plaintiff.

21 57. In the event that Plaintiff moves to enforce any aspect of this
22 Stipulation and Plaintiff is the prevailing party with respect to the dispute,
23 Defendants agree that they will pay reasonable attorneys' fees and costs, including
24 expert costs, to be determined by the Court.

25 58. Plaintiff's expert(s) shall submit bills to ADC on a monthly basis
26 which shall be paid within 45 days of submission. Expert fees are payable at the
27 rate of \$275 per hour up to the scheduled annual maximum listed below. The
28

1 maximum allowable expert fees per year is as follows: Calendar Year 2016 -
2 \$75,000; Calendar Year 2017 - \$75,000; Calendar Year 2018 - \$75,000; Calendar
3 Year 2019 - \$75,000; Calendar Year 2020 - \$75,000; Calendar Year 2021 - \$75,000;
4 Calendar Year 2022 - \$40,000; Calendar Year 2023 - \$25,000. Travel expenses are
5 reimbursable according to federal judicial guidelines and separate from and in
6 addition to the fee caps listed in the previous sentence. The ADC shall not dispute
7 the amount sought unless there is an obvious reason to believe that the work was
8 unreasonable or the bill is incorrect.

9 59. Additional fees can be requested if compliance is not achieved within
10 the term of this Stipulation. This limitation on fees and costs shall not apply to any
11 work performed in mediating disputes before the Magistrate or to any work
12 performed before the District Court to enforce or defend this Stipulation.

13 60. Defendants agree to pay attorneys' fees and costs incurred by
14 Plaintiff's counsel in this action in the amount of \$195,000, which the parties agree
15 shall represent full satisfaction of all claims for attorneys' fees and costs incurred
16 through the effective date. This payment shall be delivered within twenty-eight (28)
17 days of the Stipulation's effective date.

18 Dated: December 22, 2015

KENDALL BRILL & KELLY LLP

19
20 By: 

Bert H. Deixler
Attorneys for Plaintiff
STEPHEN LOUIS RUDISILL

21
22
23 Dated: December 11, 2015

Mark Brnovich
Attorney General

24
25 By: 

Paul E. Carter
Michael E. Gottfried
Assistant Attorneys General
Attorneys for Defendants

26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 10100 Santa Monica Blvd., Suite 1725, Los Angeles, California 90067.

On December 22, 2015, I served true copies of the following document(s) described as **STIPULATION FOR ORDER** on the interested parties in this action as follows:

Paul E. Carter, Esq.
Assistant Attorney General
177 N. Church Avenue, Ste. 1105
Tucson, AZ 85701-1114

Michael E. Gottfried, Esq.
Assistant Attorney General
1275 W. Washington Street
Phoenix, AZ 85007-2936

BY CM/ECF NOTICE OF ELECTRONIC FILING: I certify that the foregoing document(s) is being filed electronically by using the CM/ECF system. As such, the document(s) will be served electronically on all interested parties whose attorneys are registered CM/ECF users and have consented to electronic service.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on December 22, 2015, at Los Angeles, California.

/s/ Autumn McIntosh
Autumn McIntosh