

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 92-N-870 (OES) (Consolidated for all purposes with Civil Action No. 96-N-343)

JESSE MONTEZ, et al.

Plaintiffs,

-vs.-

BILL OWENS, et al.

Defendants.

FILED  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

FEB - 7 2006

GREGORY C. LANGHAM  
CLERK

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**THIRD REPORT AND RECOMMENDATION OF THE SPECIAL MASTERS TO  
UNITED STATES DISTRICT JUDGE EDWARD W. NOTTINGHAM AND SENIOR  
UNITED STATES DISTRICT JUDGE JOHN L. KANE**

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THIS MATTER comes before the Special Masters on their own motion. An issue has arisen during the processing of several claims that is beyond the jurisdiction of the Special Masters. This issue relates to the provisions of the Remedial Plan and will have to be resolved by a United States District Judge.

On September 9, 2005, a letter was received from Claimant Jimmy Graham. Mr. Graham is an inmate in the Colorado Department of Corrections (DOC) and is assigned to the Delta Correctional Facility (DCC) in Delta, Colorado. Mr. Graham is a diabetic. Mr. Graham stated that he had been required to wear a special name tag that was green in color. He represented that he was the only inmate at DCC being accommodated under the provisions of the Remedial Plan. He further stated that the special name tag singled him out as having a health problem. He objected to having to wear a name tag that was different from that of other inmates. Mr. Graham's letter is attached as Exhibit #1.

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As the result of Mr. Graham's letter, an order was sent to Defendants in order that they could respond to the letter that was being treated as a motion. The response from Defendants was received on October 12, 2005. Defendants acknowledged that a policy was in place to provide special colored name tags to those individuals who had a disability covered by the Remedial Plan and who had sought an accommodation. Defendants argued first that the issue was beyond the jurisdiction of the Special Masters. Second, Defendants argued that the policy to have colored name tags for disabled inmates was proper and served a legitimate state interest. Defendants' response is attached as Exhibit B.

After receiving the response of Defendants, Claimant filed a reply. That is attached as Exhibit C.

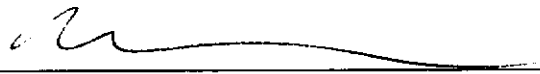
The Special Master then sent an order to counsel for the class directing a reply as to the position of the class. That reply was received on February 3, 2006. The reply is attached as Exhibit D. In that reply, counsel for the class argue that special name tags are prohibited by the Remedial Plan. Counsel further argue that the policy of special name tags is not constitutional.

The Special Masters are granted jurisdiction to adjudicate damage claims pursuant to Section XXXII of the Remedial Plan. The issue of special or different colored name tags involves an interpretation of the Remedial Plan and/or whether such issue was the subject of negotiation between the parties before the Remedial Plan was presented to this Court. The Special Masters do not believe that they have the jurisdiction to resolve this issue. As a result, the issue must be referred to the United States District Judges who are involved with the case.

IT IS HEREBY RECOMMENDED that this Court review and resolve the issue raised by Mr. Graham's motion concerning special name tags, as the issue is one that requires examination of the Remedial Plan and is beyond the jurisdiction of the Special Masters.

SIGNED this 6 day of February, 2006.

BY THE COURT:



Richard M. Borchers  
Special Master

Bruce D. Pringle  
Richard C. Davidson  
Special Master

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## CERTIFICATE OF MAILING

I hereby certify that I have mailed a copy of the foregoing Order of Special Master this 4 day of February, 2006 to the following:

Mr. Jimmy Graham  
#58513  
DCC  
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