

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 12-cv-01570-RPM

HAROLD CUNNINGHAM,  
PERCY BARRON,  
ALPHONSO BLAKE,  
JABBAR CURRENCE,  
CARLTON DUNBAR,  
SCOTT FOUNTAIN,  
SEAN GILLESPIE,  
CHARLES HIPPS,  
JOHN LAMB,  
HERBERT PERKINS,  
JOHN J. POWERS,  
ARNELL SHELTON, and  
MARCELLUS WASHINGTON,

Each individually and on behalf of all others similarly situated,

and

DISABILITY LAW COLORADO,  
COLORADO'S PROTECTION AND ADVOCACY SYSTEM,

Plaintiffs,

v.

FEDERAL BUREAU OF PRISONS,

Defendant.

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**STIPULATED ORDER CERTIFYING SETTLEMENT CLASS AND SUBCLASS  
AND DISMISSING THIS ACTION WITH PREJUDICE SUBJECT TO THE  
COURT'S RETENTION OF JURISDICTION OVER THE PARTIES AND  
SUBJECT MATTER FOR PURPOSES OF ENFORCING THE PARTIES'  
SETTLEMENT AGREEMENT, FACILITATING THE CONTINUING  
INVOLVEMENT OF A UNITED STATES MAGISTRATE IN CERTAIN  
ENFORCEMENT-RELATED MATTERS, AND ENFORCING THE  
PROTECTIVE ORDERS PREVIOUSLY ENTERED BY THE COURT**

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On December 29, 2016, the Court entered an order (Dkt. 391) approving the terms of the proposed settlement described in Plaintiffs' Motion for Preliminary Approval dated November 16, 2016 (Dkt. 382), which were more fully described during the Fairness Hearing conducted by the Court on December 15-19, 2016. In accordance with the terms of the proposed settlement, and pursuant to Fed. R. Civ. P. 41(a)(2), it is ORDERED as follows:

1. This Court has jurisdiction over the subject matter of this civil action and the parties, including all members of the proposed settlement Screening Class and Treatment Subclass.

2. The notice described in and attached to Plaintiffs' Motion for Preliminary Approval has been disseminated to the proposed settlement class and subclass in the manner directed by the Court's Preliminary Approval Order (Dkt. 383). The Court finds that the notice fairly and accurately informed members of the proposed settlement class and subclass of the material aspects of this civil action and the proposed settlement, and that the notice therefore complies with the requirements of Fed. R. Civ. P. 23(c)(2).

3. The terms of the settlement are set forth in Exhibit 611 (the "Addendum"), which was admitted into evidence at the Fairness Hearing. The "Monitored Initiatives" as defined in Paragraph 38 of the Addendum are the specified provisions of the following Exhibits, which were also admitted into evidence:

a. Exhibit 613, Program Statement 5310.16, Treatment and Care of Inmates with Mental Illness;

- b. Exhibit 614, Institution Supplement FLM 5310.16B, Treatment and Care of Inmates with Mental Illness;
- c. Exhibit 615, Institution Supplement FLP 5330.11(2)C, Secure Steps Toward Growth and Emotional Strength (“STAGES”) Program;
- d. Exhibit 616, Program Statement P5324.08, Suicide Prevention Program;
- e. Exhibit 617, Institution Supplement FLM 5324.08A, Suicide Prevention Program;
- f. Exhibit 618, Program Statement P6340.04, Psychiatric Services; and
- g. Exhibit 619, Program Statement 6010.03, Psychiatric Evaluation and Treatment.

4. Pursuant to the Addendum and Fed. R. Civ. P. 23(b)(2), and for the purposes of settlement only, the Court hereby:

- a. certifies a Screening Class consisting of all persons who are confined at the United States Penitentiary Administrative Maximum in Florence, Colorado (“ADX”) at any time between the date of this order and the end of the Compliance Period specified in Paragraph 29 of Exhibit 611; and
- b. certifies a Treatment Subclass consisting of all persons who are confined at ADX at any time between the date of this order and the end of the Compliance Period specified in Paragraph 30 of Exhibit 611 and who have been diagnosed by the Bureau or its representative personnel or contractors with a Covered Mental Illness as defined in Paragraph 25 of Exhibit 611.

5. Pursuant to Fed. R. Civ. P. 23(c) and (g), the Court appoints Plaintiffs' counsel of record in this case (other than Mark Ivandick, who is counsel only for Plaintiff Disability Law Colorado) as class counsel for the Screening Class and Treatment Subclass.

6. Pursuant to 28 U.S.C. § 636 and pursuant to the parties' consent, the Court hereby assigns U.S. Magistrate Judge Michael E. Hegarty to perform the functions specified in Paragraphs 50 and 51 of Exhibit 611 and Paragraph 3(c) of Exhibit 612 (the "Continuing Magistrate Functions"), and grants him all authority necessary to perform the Continuing Magistrate Functions. If for any reason Magistrate Judge Hegarty becomes unable to perform the Continuing Magistrate Functions, the Court shall convene a status conference with the parties' counsel to discuss possible successors, and shall thereafter appoint a successor to perform the Continuing Magistrate Functions. The Court reserves and retains jurisdiction over the parties and this case to the full extent necessary to empower Magistrate Judge Hegarty to perform the Continuing Magistrate Functions, and the Court to make any further orders as may be necessary to effectuate the purposes of this Paragraph.

7. The Court also reserves and retains jurisdiction over the parties and this case to the full extent necessary to enforce the terms of the Addendum pursuant to the terms set forth therein, as contemplated by Kokkonen v. Guardian Life Ins., 511 U.S. 375 (1994) and its progeny.

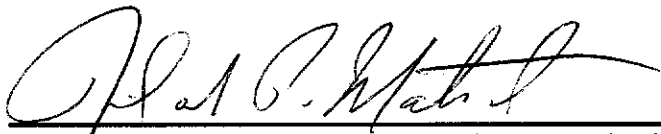
8. The Clerk of this Court is directed to enter Final Judgment, dismissing the case with prejudice subject to: (a) the Court reserving and retaining jurisdiction to the full

extent necessary, to enforce the terms of the Addendum, pursuant to the terms set forth therein; (b) to the full extent necessary to empower Magistrate Judge Hegarty to perform the Continuing Magistrate Functions set forth above; and (c) to the full extent necessary to enforce the Protective Orders entered by the Court, Docket Nos. 73, 85, 167, 213, as provided in Paragraph 9 of Exhibit 611.

DATED:

BY THE COURT

January 17, 2017



Richard P. Matsch, Senior United States District Judge

APPROVED:

s/ Edwin P. Aro

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