

Bartkus v. Commissioner of Correction



PC-CT-003-005

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

IN RE PRISON OVERCROWDING AND AIDS CASES

Consolidated Case No. H-80-506

RICHARD BARTKUS :
v. : CIVIL NO. H-80-506 (RNC)
COMMISSIONER OF CORRECTION :

JOSEPH L. LETEZEIO :
v. : CIVIL NO. H-82-245 (RNC)
COMMISSIONER OF CORRECTION :

PALMER GAINES :
v. : CIVIL NO. H-81-512 (RNC)
COMMISSIONER OF CORRECTION :

JOSEPH L. LETEZEIO, JR. :
v. : CIVIL NO. H-82-531 (RNC)
COMMISSIONER OF CORRECTION :

ERNEST D. BRADSHAW, ET AL. :
v. : CIVIL NO. H-81-843 (RNC)
COMMISSIONER OF CORRECTION :

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:

SETTLEMENT AGREEMENT

I.

INTRODUCTION

1. This is a consolidated class action commenced in 1980 by individual pro se plaintiffs who were incarcerated at the Connecticut Correctional Institution at Somers ("Somers"). In July 1986, the class was certified as all present and future inmates confined at the Connecticut Correctional Institution at Somers. An amended Motion for Class Certification was granted in October 1991.

2. First as individual complaints and then as a consolidated matter, this action has been pending in the United States District Court for the District of Connecticut since 1980, alleging overcrowding and unconstitutional conditions of confinement at Somers. Defendants have denied the allegations. After the class was certified in 1986, discovery and trial preparation intensified. Seven days of trial were conducted in January 1987 before then-U.S. District Judge Jose A. Cabranes; the trial was adjourned before any adjudication on the merits for mediation under the supervision of Senior U.S. District Judge Robert Zampano. Although that mediation did not result in a settlement, the parties continued to negotiate. Since July 1993, settlement discussions have been conducted under the supervision of U.S. Magistrate Judge Holly B. Fitzsimmons.

3. Since August 1990, the defendant has maintained the population at Somers at a self-imposed level of 1436, even though this number has no correctional significance and was chosen simply because that was the number of prisoners housed at Somers at the time the then-Commissioner made his commitment to the Court.

4. Since the inception of this lawsuit, major improvements and changes have been made in the physical facilities, the housing units, and the programming and treatment services available to inmates at Somers. Cell Block G Dormitory I (G-Dorm 1), the Barbershop, and the Card Room have been eliminated as inmate housing units. The hospital blocks are no longer used for housing protective custody or general population inmates; they are reserved for medical, mental health, and therapeutic or addiction services purposes, and for a geriatric unit. The reception and diagnostic functions for the correctional system, inmates who are chronically mentally ill, and those who require in-patient mental health treatment or long term protective custody are no longer housed at Somers. The long-term administrative segregation units have been relocated to other facilities.

5. Since the inception of this lawsuit, the State of Connecticut has planned and built a number of new correctional facilities, which have significantly increased the capacity of the correctional system. Partly as a result of this building program, the role of the Connecticut Correctional Institution at Somers in the overall correctional system has changed.

6. In January 1994, the then-Commissioner of Correction announced his intention to materially change the character of the institution at Somers, by converting it from a maximum security into a medium security institution. The changeover was substantially completed on July 1, 1994, and the name of the facility was changed to Osborn Correctional Institution ("Osborn").

7. In view of the changed circumstances over the life of this lawsuit, and particularly in light of the Commissioner's plans to change the security level of the institution, the parties were desirous of putting an end to this lengthy litigation and of terminating the Court's active supervision over this case. In May, 1994, the parties arrived at a general agreement concerning terms under which the pending litigation could be resolved.

8. The terms of the general agreement were premised on the Commissioner's independent determination that Somers should be operated as a medium security facility at its then-current population level. While the general agreement was awaiting final approval at the state level, the Commissioner in good faith proceeded with the planned conversion of Somers in compliance with the spirit of that general agreement. Although the agreement went unexecuted between May and December 1994, and the leadership of the Department of Correction has since changed, plaintiffs recognize that the new administration is entitled to the benefit of the efforts made by the Department over the past two years. Accordingly, the parties stipulate and agree that the pending litigation may be settled in accordance with the terms of this Settlement Agreement.

II.

GENERAL PROVISIONS

1. During the effective period of this Agreement, the Commissioner will maintain the inmate population at Osborn at its present level, unless the Commissioner determines that an increase is warranted.

2. Osborn will continue to be operated with a medium-security general population unless the Commissioner determines that a change is appropriate.

3. The decision of the Commissioner to effect changes pursuant to paragraphs 1 and 2 of this section shall be unreviewable and at his sole discretion. He shall give plaintiffs' counsel notice of any such changes within five (5) business days of their becoming effective.

4. This Agreement does not affect or diminish the Commissioner's discretion to administer the correctional system or to populate or configure the institution and its housing units as he determines is proper in his professional judgment.

5. Inmates under a sentence of death or requiring in-patient medical facilities, regardless of their classification level, may, in the Commissioner's discretion, continue to be incarcerated at Osborn.

6. Plaintiffs' counsel will be provided with copies of the daily population counts on a monthly basis for the life of this Agreement.

7. While this Agreement is in effect, lawyers for plaintiffs will be given reasonable access to Osborn.

III.

EFFECT OF AGREEMENT AND REMEDIES

1. Effect on Pending and Future Litigation.

(a). The Court's approval of this Settlement Agreement shall constitute the full and complete satisfaction of any and all state law or federal civil rights claims of the plaintiffs and the class which seek declaratory or injunctive relief concerning alleged overcrowding at Somers and which could have been made or were in fact made in the amended complaint or the litigation thereunder, ~~including all such claims which are, currently pending or which may be initiated while this Agreement is in effect.~~

(b). The parties have ~~no agreement~~ on whether the Approval of this Settlement Agreement by the Court shall have ~~any effect on pending and future actions for damages which raise class-type claims~~ concerning Somers/Osborn, and will make their arguments regarding res judicata and collateral estoppel on a case-by-case basis.

(c). After the approval of this Agreement by the Court and while this Agreement is in effect, the exclusive remedy for any class-type claim for declaratory or injunctive relief alleging unconstitutional conditions of confinement at Osborn, including overcrowding, programming, physical plant, fire safety, environmental health and safety, mental health, and inmate safety ~~shall be limited to the relief sought by counsel for the class.~~ This provision shall provide a basis for either party to move to dismiss any claims not filed in accordance with this provision.

what is relief of counsel for class

2. Failure to Maintain Constitutional Conditions. Upon the filing of a lawsuit alleging unconstitutional conditions of confinement, ~~as provided in Paragraph 1(c), this agreement shall~~ be void unless the parties agree otherwise. If an adverse judgment in a lawsuit brought by plaintiffs that is not covered by paragraph 1(c) would make it impractical for the Commissioner to continue to comply with this agreement, he may void the agreement upon written notice to the plaintiffs.

3. Agreement Voidable. If there is an increase in the population at Osborn, ~~the plaintiff's agreement shall be voidable~~ on notice to the defendants.

escape clause?

4. Recourse if Agreement Voided. If the Agreement is voided pursuant to Paragraph 2 or Paragraph 3 of this Section, neither party is further obligated to perform under this Agreement, and plaintiffs then have the right to file new lawsuits, challenging their then-current conditions of confinement and seeking whatever relief they deem appropriate.

5. Expiration of Agreement. Plaintiffs recognize that Osborn has been operated since May 1994 in a manner consistent with the general agreement drafted at that time (but never executed) which the parties then contemplated would have a life of two years from the date of its execution. In light of defendants' adherence to the spirit of that agreement, this Agreement, ~~unless terminated sooner, will expire one (1) year from the date of its execution.~~ *has it been executed?*

6. Modification by Agreement. This Agreement or any portion thereof may be modified by agreement of the parties.

7. Attorneys' Fees and Costs. The defendants will pay ~~\$190,000.00 in full and final settlement~~ of all claims for fees and costs, including any expert witness fees, by any counsel whomsoever in the case from its inception to the signing and acceptance of the proposed settlement and to the termination of the agreement. This sum includes all fees and costs which

otherwise might have been claimed in connection with the notice, fairness hearing and completion of work on the litigation including potential future claims for any work done after the settlement. Payment of said sum to Attorneys Michael Sheehan, James E. Swaine and Mark Lopez on behalf of the National Prison Project by the defendants shall absolve the State and the defendants from any additional payment of any sum to any other person or entity. In accepting said payment, Attorneys Michael Sheehan, James E. Swaine and Mark Lopez on behalf of the National Prison Project warrant that they shall individually and/or collectively defend, and if necessary hold harmless, the State from any such additional payment(s). It is further expressly agreed and understood that the payment of the aforesaid sum is not an admission of liability on the part of any of the defendants to this certified class action, or any other present or former officer, agent or employee of the State of Connecticut, but rather constitutes a compromise settlement of the claims for attorneys' fees and costs which were made or could have been made in connection with the above-entitled matter.

8. Compromise Nature of Settlement. This Settlement Agreement embodies a compromise of the issues involved in this case. Its provisions are not to be construed as a concession by the defendants that the operation of this correctional facility at a population level greater than 1436 or above a medium

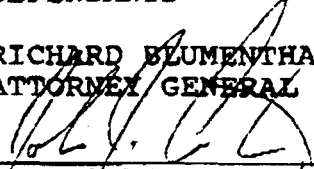
security level constitutes a constitutional violation, nor as a concession by the plaintiffs that the operation of this correctional facility at a population level of 1436 or a medium security level cannot constitute a constitutional violation. None of the agreements made in connection with the resolution of this case are to be construed as admissions of liability on the part of any of the defendants to this certified class action, or any other present or former officer, agent, or employee of the State of Connecticut. Moreover, the provisions of this Settlement Agreement are not to be construed as statements, rulings or precedents with respect to the constitutional or other legal rights of any person or persons involved in any action pertaining to any facility administered by the defendants other than Somers/Osborn.


9. Approval by Court. This Settlement Agreement shall be submitted to the Court for its review and approval pursuant to Rule 23 of the Federal Rules of Civil Procedure. The parties shall recommend to the Court a method of complying with the notice provisions of Rules 23(d) and 23(e).


PLAINTIFFS

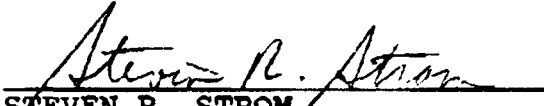
DEFENDANTS

MARK J. LOPEZ
NATIONAL PRISON PROJECT
AMERICAN CIVIL LIBERTIES UNION
Suite 410
1875 Connecticut Ave. NW
Washington, D.C. 20009
Tel. (202) 234-4830

RICHARD BLUMENTHAL
ATTORNEY GENERAL

JOHN ARMSTRONG
COMMISSIONER OF CORRECTION
STATE OF CONNECTICUT


JAMES SWAINE
LAW OFFICES OF JAMES E. SWAINE
2 Whitney Ave., Suite 700
New Haven, CT 06510
(203) 498-0086


STEPHEN J. O'NEILL
ASSISTANT ATTORNEY GENERAL
110 Sherman Street
Hartford, CT 06105
(203) 566-2832


STEVEN R. STROM
ASSISTANT ATTORNEY GENERAL
110 Sherman Street
Hartford, CT 06105
(203) 566-2832

APPROVED this _____ day
of _____, 1996.

ROBERT N. CHATIGNY
UNITED STATES DISTRICT JUDGE