

PRISONERS FORUM

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PRISON LAW MONITOR
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[The following "Objections to Proposed Settlement" was filed in the case of Costello v. Wainwright on January 4, 1980. The objections raise several critical issues, such as the affect of the settlement on individual litigants, the long period of time for implementing the agreement, during which many prisoners will suffer continued physical abuse, including death, etc.

The purpose of reproducing this edited version of the Objections, however, is to apprise prisoners in the Florida Prison System of these proceedings. It is apparent from the Objections, as well as the inquiries we receive each week from Florida prisoners, that there is a substantial gap in the information available. -- Ed].

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE FLORIDA

M.V. COSTELLO, ET AL.)	
Plaintiffs,)	
v.)	Case No. 72-109-Civ-J-S
)	
L.L. WAINWRIGHT, ET AL.)	72-94-Civ-J-S
Defendants,)	
)	
UNITED STATES OF AMERICA)	
Amicus Curiae.)	

OBJECTIONS TO PROPOSED SETTLEMENT

The following objections are made by John James Turner, DC # 042387, in pro se, in behalf of himself and all other prisoners named herein and on behalf of those prisoners who wish to make objections but are unable to do so, and for those future prisoners who obviously do not even know this litigation exists who are in the care and custody of the Department of Corrections, in and for the State of Florida.

At the outset of these objections, the proposed settlement claims it will resolve all disputes and controversies arising out of the claim of alleged overcrowding within the Florida Prison System.

We all know that the overcrowding is no longer an allegation, it is a fact, and this fact presents an extremely dangerous situation to every prisoner now in the Florida System (hereinafter the single word "System" will be used instead of the Florida Prison System).

Everyone who has ever heard of Mr. John Doe, Esq., for the most part has great respect for him as an attorney. However, when an attorney attempts to offer into agreement a proposed settlement for all the prisoners now confined and those who will be confined in the future, he is acting beyond understanding and reason. I believe no Federal Court should have the power to rule on an issue that would affect future constitutional rights, including their health and welfare, and those now confined in the System. It is outrageous, and exceeds all reasoning.

It is utterly shocking at the same time to enter a proposed Settlement that will endanger the very lives of the prisoners now in the System for another five years. What the hell was this suit intended for in the beginning?

There are prisoners being killed, beaten, raped, etc., time and again in the present conditions of this system and Mr. Doe, Esq., proposes an agreement for us prisoners now confined, and those in the future, to accept these conditions for at least another five (5) years. The man has completely went into SPACE to even suggest such an agreement.

Mr. Doe states "All class members will release. . . L. L. Wainwright and any present or former employee or agent of the Department of Corrections from all claims, demands, actions, causes of actions, federal, state, administrative or otherwise, based upon allegations of harm caused by overcrowding in the entire prison system. . . occurring at any time prior to approval of this agreement by the Court. . ."

Mr. Doe must be attempting to gain a job with the Department of Corrections. Why else would the man jeopardize every prisoners' civil action pending in the courts? It does not take a mastermind attorney at law to realize that all the employee's in the system now being sued could simply holler the incident mentioned in the suit against them is due to overcrowded conditions for the most part. Medical suits would be void; the doctor would say, "well, due to overcrowding, your medical situation could not be helped and due to the settlement of Costello v. Wainwright, Case Nos. 72-109-Civ-J-S, 72-94-Civ-J-S, I am now immune." That is exactly what would happen in most all cases now

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Costello v. Wainwright



PC-FL-001-003

Mr. Doe mentions that the main housing Unit at U.C.L. and Annex 2 at Raiford, and the silos at Hendry, will no longer house prisoners after July 1, 1985. Three Units. However, Mr. Doe fails to note that at the Main Housing Unit at U.C.L. Palone, by the time July 1st, 1985, rolls around, there will be many murders, beatings, rapes, etc. Too numerous to count. That these victims will have no form of redress in the courts, along with no actual form of protection and care for prisoners' health and welfare, between now and the magic date of July 1985, is ludicrous.

Mr. Doe, the magician with this proposed settlement and agreement out performs the "greatest show on earth." The show here is that over 20,000 prisoners now in the System and those to be confined in the future will apparently lose their constitutional rights in one quick trick called proposed settlement and agreement, pursuant to Costello v. Wainwright, #72-94-Civ-J-S.

To go a step further, closing the three mentioned prisons is not enough. The West Unit at U.C.L. needs to be closed. The roof leaks, it is cold in the winter, there is not enough toilets, etc., to handle the population. We are not saying that every prisoner should have his own toilet and shower. However, there should be adequate toilet and shower facilities in proportion to the population of prisoners housed in the inadequate housing units. Place 75 people in a 40 seat bus and keep them inside from New York to California and back: eat in there, use the same toilet, etc., and you have a good example of everyday life in this system.

Let us go to another newer Correctional Institution, Lake Correctional at Clarmont, Florida, where approximately 150 inmates share the same Dorm (there are 3 Dorms), with double beds and facilities in the following manner: 5 commodes, 6 urinals, 8 wash basins and 1 shower room with 6 shower heads for each Dorm. In the summer the Institution is covered with little black bugs, apparently from the orange and grapefruit trees that surround the Institution. We walk to the Chow Hall with our mouths covered and, inside the dining room, it is about as miserable. Mr. Doe contends that the system went from 10,000 to 20,000 inmates, and that the parties agree that standards of living there have greatly improved. HO! HO! The above concise description of L.C.L. seems to refute the allegation of "greatly improved."

Furthermore, no one can state "well, we did not know that the population would increase to such a drastic extent." Yet Time Magazine, among other things, has forecast the probable increase of people in most of the states through-out the nation. Florida looked for an increase of about 30%. Now, we are supposed to believe that the prison population is to stay at a minimum, regardless of the increase in population in this state.

Another point: "defendant therefore agrees that as a Reasonable Management Goal, he will strive in Good Faith to maintain and improve the levels of security as currently exist at major Institutions." The words Good Faith are unbelievable. Good Faith hasn't, doesn't and never will have any meaning in this system. The system is acting in good faith; that is what good faith means. Everytime an employee of this system responds to a civil complaint it is alleged that his/her actions were taken in good faith.

Hopefully in 1980 myself and many others will be paroled. But we are tired of the so-called Good Faith efforts by officials who probably have no faith. This system is sickening and degrading to those incarcerated within it. If I were to write a Federal Judge and fully explain what I have seen in a seven day period at Raiford (UCI), he would think about holding me in contempt of court. But, he never will because I just might be able to prove what I have written. If the ears do not like to hear what goes on, then how do you think a prisoner feels living in the conditions I have mentioned above.

I, JOHN JAMES TURNER #042387, firmly object to the proposed settlement and subsequent agreement. I have my own civil actions in the Federal Courts and see no reason whatsoever why they should become moot, denied, dismissed, etc., because of a proposed settlement that will not help a single prisoner. Thus, how can it help the mass?

The following named prisoners are just a few who also object to the proposed settlement and agreement in the Costello v. Wainwright, Action, No's 72-94 & 72-109-Civ-J-S.

- | | |
|--------------------------------|-------------------------------------|
| (1) John James Turner #042387 | (6) Parker Charles Peak Jr. #058848 |
| (2) Michael Metzge #027216 | (7) Franklin B. Rahl #019879 |
| (3) Anthony Ferrentino #045429 | (8) Glenn E. Williamson #042558 |
| (4) John Pamzaveichio #042584 | (9) Richard A. Greene #015349 |
| (5) Joseph R. Gavera #002922 | (10) Jess A. Getford #046014 |

CONCLUSION

For the foregoing reasons, the named plaintiffs make these objections, on behalf of themselves, those presently confined and those future prisoners to be confined. We firmly object to the proposed settlement and agreement. Furthermore, a court does not have the power to take action on future prisoners' constitutional rights. We also request that we be given further opportunity to object when necessary.

For a final note, after all is said and done, if the issue of the Overcrowded conditions is a single issue to be decided, and would not be incorporated with any issue stemming therefrom, the proposed settlement, then and only then, may have some merit concerning the sole issue of the Overcrowded Conditions, and therefore the Settlement should prove to be worthwhile.

cc: Supreme Court of the United States
United States Court of Appeals 5th Circuit
Prison Law Monitor, Washington, D.C.
Ms. Barbara Fitzhugh, whose brother has just been killed at (UCI) Raiford because of overcrowded conditions and the lack of official security.

Note: if any part of these Objections are incorrect, please notify JOHN JAMES TURNER, and corrections will be made.

Respectfully submitted,
JOHN JAMES TURNER #042387
P.O. Box 1100 - 1495
Avon Park, Florida 33825

FORUM, cont.'d from p. 170

pending against employees of this System. How about the prisoners that have been killed because of the Institution's shortage of help? Why are they short of help? Because of overcrowding.

The proposed settlement and agreement is a total sham. It is a slick move by a brilliant attorney to actually sell out the Florida prisoners now confined and those in the future. We had one of the best Federal Constitutional attorneys working with this present action, but what happened to Mr. Doe? Your guess or opinion is as good as another, after reading the proposed settlement and subsequent agreement.

Mr. Doe uses the phrase "except for states of emergency" many times. The prisoners' acrid response is "the System apparently is always in a state of emergency."