



PC-MI-003-004

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

EVERETT HADIX, et al.,

Plaintiffs,

CA No. 80-73581

v

Hon. John Feikens

PERRY JOHNSON, et al.,

Defendants.

---

ORDER ACCEPTING CONSENT JUDGMENT

The Court having conducted a FRCivP 23(e) hearing on February 13, 1985 at which certain agreements were reached, the Court having issued an Opinion dated April 4, 1985, and the Court being fully advised;

IT IS HEREBY ORDERED that the Consent Judgment submitted by the parties is accepted with the following agreed upon changes:

1. All references to "Department" or "State" shall be changed to "Defendants and their successors";

2. Due to anticipated structural changes which may result in renaming of certain portions of the facility at issue in this lawsuit, State Prison of Southern Michigan Central Complex, including the Reception and Guidance Center, shall be defined as "all areas within the walls of the State Prison of Southern Michigan at the time this cause commenced and all areas which will supply support

services under the provisions of this Consent Judgment,  
e.g., food service and Boiler Plant operations";

3. The phrase "shall continue to" shall be  
removed from Paragraph 9 of SECTION VI ACCESS TO COURTS and  
Paragraph A of SECTION IX OPERATIONS.

JOHN FEIKENS  
UNITED STATES DISTRICT JUDGE

MAY 13 1985

Date \_\_\_\_\_

A TRUE COPY

CLERK, U. S. DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

BY   
DEPUTY CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

EVERETT HADIX, et al,

Plaintiffs,

v.

Civil Action No. 80-73581  
HON. JOHN FEIKENS

PERRY JOHNSON, et al,

Defendants.

---

OPINION

The parties have moved for approval of a consent decree\* settling their dispute over the conditions of confinement at the Central Complex of the State Prison of Southern Michigan (CC-SPSM). Notice has been provided to all individuals who ~~may~~ be affected by the decree, and the Court has conducted a hearing at which the reasonableness of the decree, as well as objections to the decree, were considered at length. After review of the record before me, I conclude that the consent decree is fair and reasonable, and it is hereby approved.

In determining the reasonableness of a decree, a court must consider "the fairness of the decree to those affected, the adequacy of the settlement to the class, and the public interest." Williams v. Vuckovich, 720 F.2d 909, 921 (6th Cir. 1983). The decree before me is the product of extensive negotiation

---

\* I note that the preferable term is "consent judgment." Since the usage of the term "consent decree" is still dominant, I will use it in this instance.

and compromise by very able counsel on both sides. These negotiations covered a broad array of complaints, as the scope of the decree reflects.

This Court has considered the terms of the decree, both in relation to plaintiffs' original claims and in light of objections to the decree, with great care. Although the scope of the decree defies a detailed explanation here, it is clear that the decree promises substantial improvement in conditions of confinement at CC-SPSM, and establishes workable monitoring mechanisms to insure that these goals are realized. In view of the skill and zeal of counsel, the magnitude and nature of improvements required by the decree, and the support of the overwhelming majority of affected class members, I have no trouble concluding that the decree is a fair and adequate settlement of this dispute. Moreover, by better assuring the constitutional treatment of inmates in a manner that is agreeable to the State, it is evident that the decree is in the public interest.

While the vast majority of affected prisoners did not object to the decree, a significant number of prisoners did raise objections. Many of these inmates praise the decree, and few indicate general opposition to it. The gist of almost every objection is that the decree might be improved in particular respects.

Without derogating these objections in any way, it is worth observing that because of the very breadth of this complaint and the fact that compromise requires the relinquishment of claims

that each side considers meritorious, some disappointed expectations are inevitable. As the objections illustrate, the decree is not a panacea for the hardships of life in prison. Nevertheless, assuming the good faith compliance with the decree's terms that this Court will expect, the decree represents a reasonable settlement of the dispute.

The objections to the decree, which have been summarized by plaintiffs' counsel in a document appended to this decision, fall roughly into four categories. First, a number of prisoners have asked to opt out of this action. It is well established, however, that class members do not have a right to opt out of a class action of this sort brought under Federal Rule of Civil Procedure 23(b)(2). E.g., Kincade v. General Tire & Rubber Co., 635 F.2d 501, 506-08 (5th Cir. 1981).

The second group of objections raise questions concerning the decree's enforcement or application to a variety of particular circumstances. None of these objections indicate that the decree should be rejected as unfair or unreasonable. Instead they present compliance problems that can be dealt with by the monitoring provisions in the decree. Absent some reason to believe these provisions are insufficient, further discussion of these objections is unnecessary.

Third, a number of objections pertain to the three issues that the decree expressly sets aside for trial. As the decree leaves these matters open for later resolution, such objections

do not render the decree unfair or unreasonable. Resolution of these issues would also be premature at this juncture.

Finally, there are objections that do not fit into the preceding categories, some of which have been supported by plaintiffs' counsel. In essence, these objections seek further concessions from defendants -- concessions which defendants are unwilling to agree to. As defendants correctly point out, "[t]hese objections fail to recognize that the Decree is a negotiated compromise reached after careful assessment of the risks, expense and delay of further litigation." Defendants' Comments Respecting Objections to the Proposed Consent Decree, p. 4. Even if I assume that these complaints are meritorious, they provide no basis for concluding that the decree is not a fair and reasonable settlement by the parties.

For the reasons stated herein, the consent decree is approved. An appropriate order may be submitted.

John Feikens  
JOHN FEIKENS  
Chief United States District Judge

Dated: April 4, 1985

AT TRUE COPY  
CLERK OF THE COURT  
BY [Signature]  
DEPUTY CLERK