

CONSENT DECREE

BRIEF BANK

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

GARY KNOP, et al.,)
)
Plaintiffs,)
)
v.)
)
PERRY M. JOHNSON, et al.,)
)
Defendants.)

C.A. No. G84-651-CA5
Hon. Richard A. Enslin

ORDER OF APPOINTMENT OF
F. WARREN BENTON AS MONITOR

This Order is issued pursuant to the Court's decision on December 22, 1994 regarding implementation of a legal access plan.

IT IS HEREBY ORDERED that Dr. F. Warren Benton is appointed as monitor as set forth as follows:

I. Authority

1. This appointment is made pursuant to Fed. R. Evid. 706.

2. The Monitor shall have unlimited access to all buildings and premises under the control of the Michigan Department of Corrections at the facilities subject to this action. He shall have the authority to conduct tours of these facilities, buildings, and premises as necessary.

3. The Monitor shall have unlimited access to all relevant records, files, and papers maintained by the Michigan Department of Corrections, to the extent necessary to perform his duties as detailed in this Order. The defendants and plaintiffs shall not refuse reasonable requests for documents. The Monitor

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shall have ready access to all other papers relating to this case that are filed in the Court.

4. The Monitor shall have access to all pertinent staff members and employees of the Michigan Department of Corrections. He may engage in both formal and informal conferences with such staff members and employees, including confidential or group interviews, and such persons shall cooperate with him fully and shall respond to all reasonable inquiries and requests relating to compliance efforts. The Department of Corrections shall designate a representative to have the sole responsibility to coordinate tours of the relevant institutions or facilities, to assist in gathering documents, and to provide any additional reports or information that the Monitor may request.

5. Lawyers representing the plaintiffs or defendants, whether in this action or related actions concerning the Department of Corrections and its facilities, shall not attend tours undertaken by the Monitor or otherwise participate in the Monitor's activities without notice to the parties and permission of the Court. The Monitor may consult with attorneys for either party, and such attorneys may consult with the Monitor. In either instance, notice to the Court and opposing parties is not required. Substantive written communications to or from either party shall be copied to the parties and the Court.

6. The Monitor may conduct confidential interviews with any prisoner or with groups of prisoners incarcerated at facilities subject to this litigation.

7. The Monitor may attend, upon his oral or written request, any formal or informal institutional or central administrative meeting or proceeding conducted by Department of Corrections staff relevant to compliance issues in this action. The Department of Corrections shall not refuse such requests.

8. The Monitor may require Department of Corrections staff to prepare, where appropriate, written responses to any questions raised by him.

9. The Monitor may, subject to the approval of the Court, hire such other persons as he determines to be necessary to carry out his duties. The amount, coverage, and payment of fees for such associates shall be governed by the terms governing the fees and expenses as provided for in Part II of this Order.

10. The Monitor shall give Department of Corrections officials reasonable notice of all tours, unless he believes that such notice will interfere with the factfinding process. The Monitor, when possible, shall notify the Department of Corrections, in advance of each tour, of any needs or arrangements that should be made, such as for staff interviews or confidential interviews with inmates.

11. Any and all disputes concerning the interpretation of this Order shall be resolved by the Court, with appropriate notice and opportunity to respond by the parties.

12. The Monitor shall have the unqualified right to contact the Court, without notice to either party, with any questions he may have concerning this Order, or concerning any

other aspect of this litigation. The Court shall respond to such contacts with or without notice to either party.

13. The Monitor may discuss with the parties, and periodically propose for approval by the Court, a schedule of forthcoming hearings. The schedule will identify the issues to be covered in each hearing, and will include deadlines prior to the hearing for the submission of compliance reports by the defendants, for submission of any expert reports, and for submission of major motions.

14. The Monitor may require the parties to meet jointly with him to attempt to resolve differences.

II. Authorized Fees and Expenses

1. All fees and expenses will be paid by the defendants. Any disputes regarding fees and expenses under this Section will be submitted promptly to the Court for resolution.

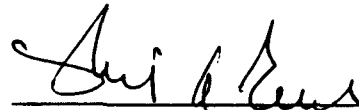
2. The Monitor shall be compensated at the rate of \$95.00 per hour for work performed under this Order. The Monitor may, at his option, designate that the fees be made payable directly to himself, or to the John Jay College of Criminal Justice where he is employed as Professor.

3. The Monitor shall also be reimbursed for all reasonable and customary expenses incurred in the course of the performance of the duties outlined in this Order, including but not limited to airfare, cabfare, car rentals, parking, hotels, meals, tips, telephone calls, postage, and photocopying costs. Typist

expenses are specifically excluded from the reimbursement provisions of this Order.

4. If an expenses arises that is not customary and is over twenty-five dollars (\$25.00), the Monitor shall seek authorization from the parties prior to submitting a bill. Authorization of the parties shall be in writing. No reasonable expenses will be denied.

IT IS SO ORDERED.



HONORABLE RICHARD A. ENSLEN
United States District Judge

Dated: 4-26-95