

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ERIC DOWDY-EL, *et al.*,

No. 2:06-CV-11765

Plaintiffs,

Honorable Avern Cohn

v

Magistrate Judge David R. Grand

PATRICIA CARUSO, *et al.*,

Defendants.

---

**PRELIMINARY ORDER APPROVING SETTLEMENT**

WHEREAS the Court having certified a class by Order dated December 20, 2012;

WHEREAS the Court having entered a Judgment on August 13, 2013 regarding certain matters at issue in this litigation and which Judgment shall remain in full force and effect;

WHEREAS the parties having otherwise resolved the remaining issues in this case and having stipulated to the form of this Order;

WHEREAS Plaintiffs having filed a Motion for Preliminary Approval of Class Action Settlement and Defendants having agreed to the form of this Order;

WHEREAS the Court being otherwise advised in the premises;

IT IS HEREBY ORDERED AND ADJUDGED:

1. Plaintiffs' Motion is GRANTED.
2. This Order applies to the named Defendants in their official capacity and shall be equally binding upon their successors, agents, officials, employees, representatives and assigns, including Daniel H. Heyns, the Director of the Michigan Department of Corrections ("MDOC").

3. The parties have agreed to resolve the remaining issues in this case through the entry of a Stipulated Final Order Approving Settlement which would provide, *inter alia*, as follows:

- A. Defendants shall provide a religious meal that comports with all religious tenets including Halal tenets and satisfies basic nutritional requirements applicable to all prisoners. Defendants have adopted PD 05.03.150 (eff. 7/26/13) and OP 5.03.150A. (eff. 7/30/13) addressing the provision of religious meals to prisoners and setting forth provisions for the preparation and service of said meals in conformity with Halal as well as other religious requirements. The parties and the Court understand the language contained in PD 05.03.150 ¶¶PP (“The ... menu shall comply with ... Halal religious tenets.”) to include not only the food items but also the manner of preparation and service. Defendants are not bound to serve any specific religious meal/menu but will provide religious meals that comport with prisoners’ religious tenets and nutritional needs.
- B. Within 30 calendar days of the entry of Judgment the Department of Corrections shall post a notice in all housing units which will inform prisoners that any prisoner who was found guilty of misconduct or received any form of administrative action including being classified as unemployable (“00”), from August 1, 2003 through the date of this Judgment, due to (a) a request to attend or attendance at a religious service which conflicted with a work, school or administrative detail or assignment or (b) refusal to attend a work, school or administrative detail due to a conflicting religious service, has the following agreed upon remedy:

- i. Within 30 calendar days of the posting of the notice, the prisoner may request expungement of the misconduct or correction of any other administrative action by filing a grievance directly at Step III as stated in the notice. No extension for filing the Step III grievance past the 30 day time limit is permitted.
- ii. If the Department determines that the prisoner was found guilty of misconduct or received other administrative action because of one of the reasons set forth above, the Department shall expunge the misconduct and/or correct the prisoner's commitment files to clarify the other administrative action.
- iii. If the Department determines that the misconduct or other administrative action was not a result of one of the reasons set forth above, the misconduct or other administrative action shall remain in the prisoner's commitment files as originally issued.
- iv. The Department shall notify the prisoner in writing of its final determination.

C. This Court shall retain jurisdiction over this matter for the purpose of enabling any party to the Judgment to apply to the Court for: (i) such further orders or directions as may be necessary or appropriate for the interpretation or implementation of this Judgment; (ii) for Plaintiffs to apply to this Court for the enforcement of any provision or the perceived violation of this Judgment; and (iii) for Plaintiffs' counsel to move for an award of costs and fees under 42 U.S.C. §1988 and/or pursuant to any other applicable basis.

D. Except as to the foregoing, this is a final order and closes this case. Neither Plaintiffs nor Defendants would appeal or challenge any order or judgment entered in this matter, including without limitation the Order dated December 20, 2012, the prior Judgment or the Final Order.

4. Pursuant to Fed.R.Civ.P. 23(e)(2), the Court preliminarily approves the proposed Settlement as set forth above as being fair, reasonable, and adequate to warrant notifying the class of the proposed Settlement and further consideration of the proposed Settlement at the hearing described below.

5. This Court will hold a hearing on November 18, 2013 at 2:00 p.m. to consider entry of a final Order Approving Settlement which shall be consistent with the foregoing.

6. Within 14 days of this Order, notice of this Order, objection procedures and the final hearing date shall be provided to class members in the form attached hereto (or which is substantially similar and approved by all counsel) by the MDOC conspicuously posting a copy of the Notice in the public areas of each of its facilities and camps and in two conspicuous locations within each of prisoners housing units.

7. Any member of the class may file an objection to the settlement for consideration by the Court but only in accord with the following procedure. No member of the class or any other person opposing the settlement or any provision thereof shall be heard or entitled to contest the approval of the terms and conditions of the settlement and if approved the judgment to be entered thereon and no papers or briefs submitted by any member of the class or any other personnel shall be received and considered except by Order of the court for good cause shown, unless, no later than ten business days prior to the hearing copies of (a) a written notice of intention to appear, (b) proof of any class membership, (c) a detailed statement of each person's

specific objections to any matter before the court, (d) the grounds for such objections and any reasons for such person's desiring to appear and to be heard, as well as all documents and writings such person desires this court to consider, and (e) a statement advising the Court and the parties of any court proceeding in which said objector and his counsel has made an objection to a class action settlement within the past three years identifying the past objections made by case name, docket number and court shall be served upon the following counsel:

Daniel D. Quick  
Dickinson Wright  
2600 West Big Beaver Road, Suite 300  
Troy, MI 48034

John L. Thurber  
Assistant Attorney General  
Corrections Division  
P.O. Box 30217  
Lansing, MI 48909

and then filed with the Clerk of the Court. Unless the Court otherwise directs, no members of the class shall be entitled to object to the settlement or to the judgment to be entered herein, or otherwise to be heard, except by serving and filing written objections as described above. Any person who fails to object in the manner provided above shall be deemed to have waived such objection and shall forever be barred from making any such objection in this action or any other action proceeding.

8. The parties shall file any supplemental papers in support of the proposed settlement no later than five business days before the hearing.

9. If the settlement provided for in the stipulation is approved by the Court following the hearing, judgment shall be entered in the form consistent with the foregoing and in a form to be submitted to the Court.

10. Except as otherwise provided in the stipulation, all pre-trial proceedings in this action except for such proceedings ordered by the court with respect to approval of the settlement, are stayed and suspended until further order of this Court.

11. The Court reserves the right to approve the stipulation and the settlement with modifications and without further notice to members of the class, and retains jurisdiction over the action to consider all further applications arising out or connected with the proposed settlement.

**IT IS SO ORDERED.**

Dated: September 17, 2013 s/Avern

Cohn  
UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Daniel D. Quick  
Counsel for Plaintiffs

/s/ John Thurber  
Counsel for Defendants

**NOTICE TO PRISONERS**  
**CLASS ACTION SETTLEMENT**

A class action lawsuit, filed in 2006, is being settled. If you are a class member, your rights may be affected by the settlement. Please read this notice carefully.

**DOES THIS APPLY TO ME?**

This notice applies to you if you fall in to 1 of the following categories:

- A Muslim inmate who desires but has been denied a *halal* diet that is free of contamination by foods considered *haram*.
- A Muslim inmate who was found guilty of misconduct or received any form of administrative action including being classified as unemployable ("00"), from August 1, 2003 through the date of the hearing noted below, due to (a) a request to attend or attendance at a religious service which conflicted with a work, school or administrative detail or assignment or (b) refusal to attend a work, school or administrative detail due to a conflicting religious service.

**WHAT WAS THE LAWSUIT?**

The lawsuit did not seek money damages but a change to MDOC policy on three items: (a) allow Muslim inmates to celebrate the *Eid* feasts; (b) allow inmates with a conflicting work or school detail to attend religious services without penalty or punishment; and (c) allow Muslim inmates to have *halal* meals. The first two items were resolved in a Judgment entered by the Court and as to which the MDOC has changed its policy (as set forth in prior notices). Now the rest of the case is being resolved.

**WHAT IS THE SETTLEMENT?**

With regard to MDOC policy, the proposed settlement provides as follows:

- The MDOC shall provide a religious meal that comports with *halal* tenets and satisfies basic nutritional requirements applicable to all prisoners. Defendants have adopted PD 05.03.150 (eff. 7/26/13) and OP5.03.150A. (eff. 7/30/13) addressing the provision of religious meals to prisoners and setting forth provisions for the preparation and service of said meals in conformity with Islamic religious requirements. Defendants are not bound to serve any specific religious meal/menu but will provide religious meals that comport with prisoners' religious tenets and nutritional needs.
- Previously, the Court entered a Judgment requiring, in part: "Prisoners shall be released from work or school assignments to attend group religious services and approved holy day observances so long as the procedures set forth in PD 05.03.150 (eff. 7/26/13)(or the substantial equivalent in a subsequent policy) shall be followed. Observance or request for such observance shall not lead to any punishment or deprivation of any right or benefit (including being placed on "00" status)." As part of this settlement, the MDOC will adopt a procedure for any prisoner who was found guilty of misconduct or received any form of administrative action including being classified as unemployable ("00"),

from August 1, 2003 through the date of the Judgment, due to (a) a request to attend or attendance at a religious service which conflicted with a work, school or administrative detail or assignment or (b) refusal to attend a work, school or administrative detail due to a conflicting religious service, to have that punishment removed from the inmate's file.

### **HOW DOES THIS AFFECT ME?**

You do not need to do anything. The settlement is believed to be in the best interests of the class members by the lawyers representing the inmates, which includes the American Civil Liberties Union of Michigan. However, if you are a class member and wish to object to the settlement, you may file an objection. If approved by the Court, you will still enjoy the benefits of the settlement.

If you are a class member and for some reason believe the settlement is not in your best interests, you can express your concerns to the Court. The Court will hold a hearing on November 18, 2013 to review any objections and either approve or reject the settlement.

### **HOW DO I OBJECT?**

To object, you must, in writing, state (a) how you are a member of the class, (b) a detailed statement of your specific objections to any matter before the court, (c) the grounds for such objections and any reasons for your objection, as well as all documents and writings you desire the court to consider, and (d) a statement advising the Court and the parties of any court proceeding in which you have made an objection to a class action settlement within the past three years identifying the past objections made by case name, docket number and court. You must mail this to:

Daniel D. Quick  
Dickinson Wright  
2600 West Big Beaver Road, Suite 300  
Troy, MI 48034  
248-433-7242

and filed with the Clerk of the Court by mailing it to:

Clerk's Office  
Theodore Levin U.S. Courthouse  
231 W. Lafayette Blvd., Room 564  
Detroit, MI 48226

You should include the case number (2:06-CV-11765) on your correspondence. Any objection must be received by the Court by no later than November 8, 2013.

Unless the Court otherwise directs, no members of the class shall be entitled to object to the settlement or to the judgment to be entered herein, or otherwise to be heard, except by serving and filing written objections as described above. Any person who fails to object in the manner provided above shall be deemed to have waived such objection and shall forever be barred from making any such objection in this action or any other action proceeding.