



PC-NV-005-010 UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

JAMES E. PHILLIPS, et al.

Case No. CV-R-77-221-ECR

Plaintiffs

vs.

RICHARD BRYAN, et al.,

Defendants

ENTERED  
MAY 20 1988

CLERK, U.S. DISTRICT COURT  
DISTRICT OF NEVADA  
DEPUTY

APPROVING STIPULATED SETTLEMENT AGREEMENT

RECEIVED  
AND FILED

MAY 19 12 21 PM '88  
CAROL C. FITZGERALD

This is a class action which concerns conditions of confinement at the Nevada State Prison (NSP), a maximum security institution in Carson City, Nevada. An earlier stipulated settlement agreement was approved by this court on August 22, 1983 (Shapley Agreement). Plaintiff subsequently moved this court to hold the defendants in contempt for not complying with that agreement and the parties have now presented to the court for its approval a Stipulated Settlement Agreement (Agreement) to compromise and settle the action along with a stipulated agreement regarding attorney's fees.

Notice of the proposed settlement has been given to the members of the class in accordance with the applicable rules and the previous orders of this court. A hearing on the issue of approval of the agreement was held before this court on October 16, 1987. The attorneys for plaintiffs and defendants were present. Inmates James Phillips, Russell White, Robert Michenfelder and Greg Hogan were also present to present any opposition or comments on the agreement and did address the court during the hearing. The court has considered the comments of counsel, the individual inmate plaintiffs representing the

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1 class and the numerous objections and other documents filed by  
2 inmates with the court to this point in time.

3 As noted by this court in the order of August 22, 1983  
4 (dckt. number 468), the standard for approval of the agreement  
5 is whether it is in the best interests of the class and is a  
6 fair settlement of their claims. While individual inmates may  
7 have objections to portions of the agreement, the standard for  
8 approval must nevertheless be applied. According to this  
9 standard, the court finds that the agreement should be approved  
10 as it is in the best interests of the plaintiff class in that it  
11 provides relief more favorable to them than they would be able  
12 to obtain had this action proceeded on the contempt motion. See  
13 Hoptowit v. Ray, 682 F.2d 1237 (9th Cir. 1982); Wright v.  
14 Rushen, 642 F.2d 1149 (9th Cir. 1981).

15 This agreement proposes to settle the motion for contempt  
16 filed several years ago by plaintiff with regard to the earlier  
17 settlement agreement entered in 1983. This agreement actually  
18 renews much of the agreement entered in 1983 which would have  
19 otherwise expired and also supersedes and entirely replaces the  
20 Craig Consent Decree which had been made a part of the earlier  
21 agreement entered in this case on April 6, 1983. This agreement  
22 carries forward many of the provisions of those earlier agree-  
23 ments. In addition, this agreement provides for two independent  
24 monitors concerning specific conditions at NSP, provides for  
25 reduction and eventual elimination of the need for monitors and,  
26 because the agreement is comprehensive, it should make it much  
27 easier for the defendants to follow and easier for all parties  
28 to follow the actual meaning of the document.

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The principal objection of the inmates is that the defendants have not been in compliance with the earlier agreement in many respects such that the new agreement should not be approved or the defendants should not be allowed a complete good faith defense. There is also a concern that this agreement negates areas previously agreed upon or may be vague or ambiguous in areas. The court finds that these objections are not well-founded. The agreement appears to be sufficiently specific and actually incorporates much of the language contained in the earlier Shapley Agreement and Craig Decree. The court has reviewed the document extensively and finds that it is not vague or ambiguous. It is also a question of fact as to whether or not defendants have complied with prior agreements and counsel has agreed that a contempt trial would have been very difficult. The concerns the court had with regard to the language of the draft agreement have been eliminated by the present agreement which was modified since the October 16, 1987 hearing and discussion of the draft at that time.

IT IS, THEREFORE, HEREBY ORDERED that the Stipulated Settlement Agreement and the Stipulation for Settlement of Attorney's Fees filed with the court on May 19<sup>th</sup>, 1988, are approved.

DATED this 19<sup>th</sup> day of May, 1988.

James M. Burns  
UNITED STATES DISTRICT JUDGE