

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

-----X
LOUISE TODARO, et al., and all
other persons similarly situated,

 Plaintiffs,

 against

STIPULATION AND
ORDER

GLENN S. GOORD, et al.

 Defendants.

74 Civ. 4581 (RJW)

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The Complaint in this case, filed in 1974, alleged that the medical care provided to
women at Bedford Hills Correctional Facility was inadequate and violated the United States
Constitution. The defendants denied the allegations. In 1977 Judge Robert J. Ward of the United
States District Court for the Southern District of New York held significant aspects of the
medical care system at Bedford Hills unconstitutional, *Todaro v. Ward*, 431 F. Supp. 1129
(S.D.N.Y. 1977), and entered a remedial judgment. The Court of Appeals affirmed. 565 F.2d 48
(2d Cir. 1977).

In 1980, following the filing of motions for contempt and further relief alleging
noncompliance with the judgment, the Court appointed Dr. Frank Rundle, a physician and
psychiatrist with extensive experience in providing and evaluating medical care in prisons and
jails, to assist defendants in achieving compliance and to report to the Court on the state of their
progress. His appointment was affirmed by the Second Circuit. 652 F.2d 54 (2d Cir. 1981).

On August 18, 1989, following the withdrawal of plaintiffs' motions for contempt and
modification and a report by Dr. Rundle citing serious deficiencies in care, a modified judgment
by consent was entered requiring, *inter alia*, enhanced staffing levels; physician staff
knowledgeable in the treatment of HIV/AIDS; weekly infectious disease specialist availability at

Bedford Hills; a system to track the provision of ordered care; a system to track the care provided to women with chronic illnesses; training for nursing staff conducting sick call in assessment and in the recognition of infectious diseases; more frequent and more comprehensive rounds by medical staff in the infirmary; timely responses to requests for assistance in the infirmary; improvements in the system of medical records; and a system of peer review. Dr. Rundle's term was continued.

Following reports of untimely delivery of gynecological care to women with HIV/AIDS, the parties negotiated a second modified judgment on consent, entered in October, 1993, requiring specific time frames for the provision of such care. Dr. Rundle's term was again continued. It was to end when defendants reached compliance with the judgment and could reasonably be expected to maintain such compliance.

From October, 1993 to the summer of 2002, Dr. Rundle conducted periodic site visits to Bedford Hills. During these visits, he conducted chart and document reviews, met with members of the plaintiff class, consulted with defendant medical officials about the functioning of the medical care system and the treatment of individual prisoners, and met with counsel for plaintiffs and defendants and with the Court to report his findings concerning the provision of medical care at Bedford Hills and the status of substantial compliance. During this time, defendants created computer programs to assist in tracking the provision of specialty and chronic care. Defendants also retained additional medical staff to assist in the provision of care to class members. Dr. Rundle's term was extended on consent of the parties.

The goals of the judgments in *Todaro*, as set forth in the Second Modified Judgment, were to "ensure that defendants provide competent and adequate medical care to plaintiffs,

consistent with contemporary medical care standards.” To achieve these goals, a variety of systems have been required by the *Todaro* judgments: a system of access to medical care, including daily sick call conducted by staff trained to identify and evaluate significant illness and timely access to physicians on request by inmates; an infirmary system with access to medical staff, both on request and by the conducting of regular and periodic rounds by nurses and physicians on a daily basis; a system for tracking the provision of ordered care, including laboratory and other tests and procedures, specialty consultations, and hospitalizations so as to ensure such care takes place within the time frames recommended by the ordering physicians; a system for the identification and timely periodic follow up of persons with chronic illnesses; the allocation of sufficient and trained staff, including nurses, physicians and specialists such as those with expertise in infectious diseases; and, for women prisoners in particular, medical care tailored to their special needs such as the provision of timely gynecological care.

These kinds of systems, needed to provide appropriate medical care to inmates suffering from serious illnesses, require significant time to implement and to evaluate so as to ensure their adequacy. The comprehensive monitoring efforts of the federal court and its monitor, the efforts of defendants’ staff, and the cooperative efforts of the parties have been directed at achieving full implementation of these systems. Those efforts have now borne fruit. In the summer of 2002, Dr. Rundle determined that substantial compliance with the terms of the second modified judgment on consent had been achieved.

WHEREFORE, because substantial compliance has been achieved and in order to continue the monitoring of the delivery of medical services, the parties hereby agree:

1. The term of the monitor, Dr. Frank Rundle, ended as of August 25, 2002.

2. The Second Modified Judgment will continue until September 1, 2004. On September 1, 2004, unless plaintiffs demonstrate that defendants have not been in substantial compliance with its terms or cannot reasonably be expected to maintain such compliance, this judgment shall terminate.

3. From September 1, 2002 until July 30, 2004, defendants shall provide the following to plaintiffs' counsel, so that counsel can monitor substantial compliance with the terms of the Second Modified Judgment referred to in paragraph 2, above:

a. Copies of the Ordered Care File, i.e., the computer generated files of all class members referred for specialty and/or hospital care, the date by which such care is recommended, and the date such care is provided. This file shall be provided to plaintiffs' counsel on a monthly basis.

b. Copies of reports from the Chronic Care File generated from the chronic care database will be provided to plaintiffs' counsel on a quarterly basis. These reports shall include for the prior three month period a listing of all scheduled appointments, the condition being treated, and if the appointment was not completed the reason such appointment did not take place.

c. Copies of the Medical Review Clinic call-out sheets which shall identify the inmate's name, the issue and the action taken. Such documents shall be provided to plaintiffs' counsel for the months of November, 2002; February, 2003; May, 2003; August, 2003; November, 2003; February, 2004; May, 2004 and July, 2004.

d. On request of plaintiffs' counsel, counsel shall be permitted to review the medical charts of class members at Bedford Hills Correctional Facility.

e. Defendants shall respond to complaints and inquiries about medical concerns raised on behalf of individual class members by plaintiffs' counsel.

4. Plaintiffs' counsel shall not seek fees for monitoring that does not lead to motions for contempt and/or modification.

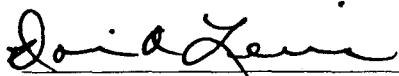
A copy of this Stipulation and Order shall be provided in English or Spanish, as requested by the woman prisoner, by Wednesday November 6, 2002 to all class members at Bedford Hills, including those in special housing units, and to all women on admission to Bedford Hills. It shall also be posted in the medical building, the law library, and in all housing areas. On Thursday November 14, 2002, meetings shall be held between plaintiffs' counsel and any member of the plaintiff class who wishes to attend to discuss the terms of this Stipulation. To attend this meeting, a member of the plaintiff class shall sign a sign up list by Wednesday November 13, 2002 which shall be posted in every housing area by Wednesday November 6, 2002, and women in special housing units shall inform either executive staff members or medical staff conducting rounds by Wednesday November 13, 2002 that she desires to meet with plaintiffs' counsel. Any class member who wishes to meet with plaintiffs' counsel shall be permitted to do so. If the class member wishes Spanish translators to be available at the meeting, they should note that request on the sign-up list or, if in special housing, shall so advise the staff member. The size of meetings with class members shall be determined by defendants based on legitimate security needs, in consultation with plaintiffs' counsel.

Women prisoners who wish to contact plaintiffs' counsel may do so by writing:

Dori Lewis
Prisoners' Rights Project, The Legal Aid Society
One Battery Park Plaza, 27th floor
New York, N.Y. 10004

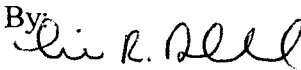
A copy of this Stipulation and Order shall continue to be provided to every inmate admitted to Bedford Hills until September 1, 2004, in English or in Spanish as requested by the woman prisoner. A copy of the simplified explanation of the Second Modified Judgment shall also be provided to each inmate upon admission.

Dated: New York, New York
October 1, 2002



DANIEL L. GREENBERG
DORI A. LEWIS (9862)
The Legal Aid Society
Prisoners' Rights Project
One Battery Park Plaza, 27th floor
New York, N.Y. 10004
212-577-3530

ELIOTT SPITZER
Attorney General of the State of
New York
Attorney for defendants

By: 

LISA R. DELL (LD-9464)
Assistant Attorney General
120 Broadway, Room 24D42
New York, N.Y. 10271
212-416-8646

This stipulation is SO ORDERED.

Dated: October __, 2002

Honorable Robert J. Ward

Todaro v. Ward



PC-NY-0036-0001