

Austin v. Wilkinson



PC-OH-001-003

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

CHARLES E. AUSTIN, et al.,)	CASE NO. 4:01-CV-71
)	
Plaintiffs,)	
)	
v.)	Judge James S. Gwin
)	
REGINALD WILKINSON, et al.,)	
)	ORDER
Defendants.)	

On April 24, 2002, the defendants filed their proposed Policy 111-07 in accordance with the Court's March 26, 2002, order [Doc. 272]. Having reviewed the defendants' proposed policy, the plaintiffs' response to the policy, and the defendants' reply, the Court adopts the defendants' April 24, 2002, proposed policy with the following changes:

1. The adopted policy will reflect the three phrasing changes described in the "Corrections" section of the defendants reply memorandum filed on May 13, 2002 [Doc. 281].
2. Both section VI(C)(III)(C)(8) [page 7 of the adopted policy] and section VI(J)(III)(H)

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[page 14 of the adopted policy] should be changed from “within five (5) working days” to “within ten (10) working days.” There are no other changes to these sections.

3. The newly adopted Policy 111-07 should include the sentence: “No person who serves on a prisoner’s classification committee should decide, or take part in deciding, the prisoner’s appeal to the Warden or the Bureau of Classification.” The Court leaves the placement of this language to the discretion of the Department of Rehabilitation and Correction (the “Department”).

In addition, the Court orders that all forms used by the defendants in conjunction with the newly adopted Policy 111-07 should conform to the language of the adopted policy. The Court will not delay the implementation of the newly adopted Policy 111-07 while the plaintiffs review the Department’s forms. However, the defendants have until May 22, 2002, to provide the plaintiffs’ counsel copies of all the forms they will use under the newly adopted Policy 111-07. The plaintiffs have until May 30, 2002, to file any objections to the forms.

Next, the Court clarifies its order with respect to the language in section VI(I)(III) [page 12 of the adopted policy]. A prisoner’s prior conduct that results in the death or extreme bodily harm to another may only be considered for retaining a prisoner in Level 5 classification if that conduct was used as one of the justifications for the prisoner’s initial placement to Level 5. In such a case, the prisoner’s prior conduct that resulted in the death or extreme bodily harm of another may be considered but the conduct must be considered in conjunction with his conduct while at the OSP.

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Finally, the Court notes that under its March 26, 2002, order, all prisoners currently classified at Level 5 should receive an additional classification review under the newly adopted Policy 111-07. Those reviews must be completed within eight weeks of this order.

IT IS SO ORDERED.

Date: May 15, 2002

s/ James S. Gwin
James S. Gwin
United States District Judge