

Austin v. Wilkinson



PC-OH-001-004

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 A. WILKINSON, et al.,)	ORDER
)	
Defendants.)	

This case comes before the Court upon the application of the parties that this Court approve a certain stipulation for injunctive relief ("Settlement Agreement") [Doc 181]. On October 5, 2001, this Court ordered that this action be maintained as a class action on behalf of:

All persons who were confined at the Ohio State Penitentiary as of January 9, 2001, or who have come to be confined there since that date, or who may be confined there during the pendency of this litigation, membership in the class once thus established to continue during the pendency of the litigation.

On February 19, 2002, the parties jointly moved this Court to approve the proposed Settlement Agreement [Doc. 220]. The proposed Settlement Agreement would settle some of the claims the class

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plaintiffs asserted. The Court ordered the class members be given notice of the hearing concerning acceptance of the Settlement Agreement and be given an opportunity to object.

The Court finds that the plaintiffs have adequately given notice to class members of the proposed Settlement Agreement. Furthermore, the Court finds that class members have been given an opportunity to object to the Settlement Agreement and some, in fact, have filed objections with the Court.

On April 5, 2002, the Court held a hearing to determine whether the terms of the proposed partial settlement were fair, reasonable, and adequate. The Court now decides whether to approve the written Settlement Agreement partially settling the plaintiffs' claims entered into by and among the parties on January 8, 2002, and enter judgment in accordance with its terms.

The Court has considered the effect on the approval of this partial settlement on the class members. The Court has considered the pleadings and memorandums previously filed in this class action and heard argument of counsel. In addition, the Court has taken testimony from certain class members objecting to the settlement. In addition, the Court has reviewed each of the written objections to the Settlement Agreement filed with this Court.

Having reviewed each of these, the Court finds as follows:

In this case, the plaintiffs are inmates at the Ohio State Penitentiary ("OSP"), the State of Ohio's first "supermax" prison. On January 9, 2001, the plaintiffs filed a complaint seeking declaratory and injunctive relief. In their amended complaint, they allege that conditions and practices at the OSP constitute cruel and unusual punishment. In major part, the plaintiffs complain that the housing of mentally ill patients at the OSP, the provision of mental health treatment at the OSP, the provision of medical treatment at the OSP, the provision of recreation at the OSP, and the use of security restraints at the OSP violate the

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plaintiffs' right to be free from cruel and unusual punishment. The amended complaint also claimed that defendants' method and practice in classifying inmates for placement and retention at the OSP violates the inmates right to due process.

With their Settlement Agreement, the parties reach agreement on all claims save the plaintiffs' claims relating to the classification of inmates for placement or retention at OSP. With its orders filed on February 25, 2002 [Doc. 227], and March 26, 2002 [Doc. 259], the Court decided all issues related to the classification of inmates for placement or retention at the OSP. The Settlement Agreement proposes resolution of all other issues.

In the Settlement Agreement, the parties deal with the issues of housing and the treatment of inmates. Regarding the provision of medical treatment, the parties agree that the OSP will change certain practices identified by Drs. Goldenson and Cohen, the medical practice experts used in this litigation. The parties agree to abide by the future decisions of Drs. Goldenson and Cohen, who are to serve as Monitors to insure improved medical care.

Regarding mental health care, the Settlement Agreement stops the placement and retention of inmates at the OSP who are seriously mentally ill. To insure that seriously mentally inmates are not placed at the OSP, the Settlement Agreement provides for an agreed-upon Monitor to evaluate inmate placements. As to such evaluations, the Monitor's decision is final.

With regard to its provisions dealing with recreation equipment, the Settlement Agreement says the defendants are to construct outdoor recreation. While some inmates complain about the time necessary to carry out the funding and construction of the outdoor space, the Court finds the agreed upon terms are reasonable.

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After notice of the proposed Settlement Agreement, a number of inmates objected. The objections most frequently raised by class members were related to their classification at the OSP, an issue unaffected by the Settlement Agreement does not affect. Members of the class also complained that the outdoor recreation modifications were not immediate. The Court finds that the Settlement Agreement reasonable in light of the fiscal and legislative realities the Department of Rehabilitation and Correction faces in constructing the outdoor recreation facility.

I. Discussion

Under Rule 23(e) of the Federal Rules of Civil Procedure, “[a] class action shall not be dismissed or compromised without the approval of the court.” In reviewing whether to approve the parties settlement, the Court considers whether the proposed settlement is lawful, fair, reasonable, adequate and consistent with the public purpose. *Bailey v. Great Lakes Canning, Inc.*, 908 F.2d 38, 42 (6th Cir. 1990); *Williams v. Vukovich*, 720 F.2d 909, 921 (6th Cir. 1983); *see also Isby v. Bayh*, 75 F.3d 1191, 1196 (7th Cir. 1996).

In evaluating a proposed settlement agreement, the Court considers the nature of the litigation, what results could be obtained without settlement, and what risks exist of an adverse ruling. *See Vukovich*, 720 F.2d at 921–23. A court may not withhold approval of a proposed consent decree simply because benefits accrued from decree are not what a successful plaintiff would have received in a fully litigated case. *Id.* at 922.

The Settlement Agreement is reasonable, lawful, and fair. Under the agreement, specific procedures are put into place to improve medical and mental health treatment, including giving final authority

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for mental health placement at the OSP to an agreed upon professor of psychiatry. None of the filed objections suggest a reasonable way to improve the Settlement Agreement.

With regard to medical treatment, the Settlement Agreement again significantly improves the currently provided treatment. Among other items, the Settlement Agreement requires weekly rounds by physicians and daily rounds by nurses. The agreement establishes a quality assurance program. The agreement also avoids housing inmates at the OSP with conditions that cannot be properly treated there and requires that its x-ray capability be improved. Perhaps most important, the Settlement Agreement appoints two Monitors to scrutinize ongoing medical treatment at the OSP and empowers them to require changes.

Finally, the Settlement Agreement makes provision for improved recreational facilities, even if not immediately. Given the large cost associated with renovations to the OSP, and the bureaucracy associated with state building projects, the proposed delay does not impact the reasonableness of the Settlement Agreement.

II. Conclusion

The Settlement Agreement is hereby approved and confirmed as being fair, reasonable, and adequate. The parties thereto are hereby directed to perform the Settlement Agreement in accordance with its terms.

All claims for equitable relief against the settling defendants by anyone who might fall within the Class are forever barred.

The Court retains jurisdiction over the settlement of this case and may enter additional orders to

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effectuate the fair and orderly administration of the settlement and the Court's judgment as may from time to time be appropriate.

Dated: April 5, 2002

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE

