

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

STEVEN AUSTIN, et al. : CIVIL ACTION  
v. :  
PENNSYLVANIA DEPARTMENT : NO. 90-7497  
OF CORRECTIONS, et al. :

FILED JAN 6 1995

ORDER

AND NOW, to wit, this 5th day of January, 1995, upon consideration of the Stipulation of Dismissal Pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii), the Proposed Settlement Agreement, as amended, Plaintiffs' Memorandum of Law in Support of Proposed Settlement Agreement, Defendants' Memorandum of Law in Support of the Proposed Settlement Agreement, the objections of class members received by the Court between August 9, 1994, and the date of this Order,<sup>1</sup> and all other documents to which reference is made in this Court's Memorandum which will be filed on or before January 17, 1995, following a hearing on December 12 and 13, 1994, at which time the Court received testimony from designated Class representatives and other class members concerning the Proposed Settlement Agreement, for the reasons summarized below and set forth in more detail in the Court's Memorandum which will be filed

CLERK OF COURT

ENTERED: 1-9-95

1. All written objections from class members received by the Court were docketed.

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on or before January 17, 1995, IT IS ORDERED as follows:

1. Members of the plaintiff class were given adequate notice of the proposed settlement, the proposed dismissal of the action without prejudice, their right to file objections, the manner of filing objections, and the hearing on the proposed settlement scheduled for December 12, 1994 and December 13, 1994, pursuant to Federal Rule of Civil Procedure 23(e) and Orders of the Court dated September 20, 1994, November 21, 1994 and November 29, 1994;

2. The Settlement Agreement fairly, reasonably and adequately advances and protects the interests of the plaintiff class and is **APPROVED** pursuant to Federal Rule of Civil Procedure 23(e). The Court's review of the Settlement Agreement was conducted solely to comply with Federal Rule of Civil Procedure 23(e) and does not convert the Settlement Agreement into an order of the Court or a consent decree;

3. The Stipulation of Dismissal without prejudice pursuant to Federal Rule of Civil Procedure 41 (a)(1)(ii), except for plaintiffs' claims regarding tuberculosis control which will be covered by a subsequent order, is **APPROVED** in accordance with Federal Rule of Civil Procedure 23(e);

4. Any plaintiff, including those plaintiffs who filed objections or wrote letters to the Court which stated personal or individual concerns, may at any time file a new complaint raising some or all of the issues presented in this action, and any other issues justiciable in this Court. Because this Court has dismissed

the action, plaintiffs are now informed that the Court no longer has jurisdiction to consider individual objections or individual correspondence relating to the action;<sup>2</sup>

5. If within three (3) years of the date hereof the plaintiffs, by their current counsel, file a new action on any issues presented by this action, the new action will be considered a "related case" and assigned to this Court;

6. All discovery that has been provided by the parties in this action shall be deemed to be part of discovery in any new action filed in accordance with paragraph 5 above. Plaintiffs' counsel may maintain control and custody of all discovery provided to date. Plaintiffs' counsel shall continue to comply with the provisions of all protective orders; and,

7. If any of the corrections issues that were the subject of testimony in the trial of the corrections phase of this case are raised in a new action filed pursuant to paragraph 5 above, the testimony and evidence introduced in the corrections phase of this case shall be admissible on the merits in the new action.

**IT IS FURTHER ORDERED** that (a) all pending motions of class members to intervene, some of which were filed as objections to the proposed settlement, are **DENIED** on the ground that there is no need for class members to intervene as all objections filed by class members were considered by the Court, (b) all pending motions

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2. The parties, through counsel, have agreed to continue to investigate certain individual claims designated by the Court and to report to the Court after they have done so.

of class members for appointment of counsel, some of which were filed as objections to the proposed settlement, are DENIED on the ground that there is no basis for appointment of counsel for individual class members, the entire class being adequately represented by class counsel, (c) all pending motions of class members to enjoin the proposed settlement, some of which were filed as objections to the proposed settlement, are DENIED for the reasons set forth above and in the Court's Memorandum which will be filed on or before January 17, 1995, and (d) all other pending motions related to the proposed settlement, some of which were filed as objections to the proposed settlement, are DENIED.

IT IS FURTHER ORDERED that notice of the provisions of the within Order shall be provided by defendants to members of the plaintiff class and other inmates in the state correctional system who are affected by the Order by posting such notice in appropriate places in state correctional institutions.

BY THE COURT:

  
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JAN E. DUBOIS, J.