



PP-MD-002-002

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

ROBERT L. WILKINS, <u>et al.</u> ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. MJG-93-468
)	
MARYLAND STATE POLICE, <u>et al.</u> ,)	
)	
Defendants.)	
)	

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SETTLEMENT AGREEMENT

The Plaintiffs, by and through their attorneys David A. Hill, John C. Keeney, Jr., Deborah A. Jeon and Susan Goering, and the Defendants, by and through their attorneys Richard B. Rosenblatt and Steven Wilkinson, in the spirit of compromise agree to settle the within dispute in accordance with the terms set forth below.

WHEREAS, on or about February 12, 1993, Plaintiffs commenced this action in the United States District Court for the District of Maryland;

WHEREAS, Defendants have denied many of Plaintiffs' allegations and specifically deny any violation of state or federal law;

WHEREAS, on May 8, 1992, a car in which Plaintiffs Robert L. Wilkins, Norman Scott El-Amin, Nu'man W. El-Amin, and Aquila Abdullah were traveling was stopped by Defendant Maryland State

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Police Trooper Bryan W. Hughes on U.S. Interstate Route 68 in Cumberland, Maryland;

WHEREAS, after being stopped, Plaintiffs were detained by Defendant Hughes in the presence of Defendant Edward V. Syracuse, who then called Defendant Allegany County Deputy Sheriff Ronald Brown to the scene with a drug-sniffing dog to perform an exterior search of Plaintiffs' car;

WHEREAS, in order to bring to rest the controversy between all parties, to secure total and final settlement of all claims against Defendants by Plaintiffs arising out of the purported acts set out in the Plaintiffs' Amended Complaint, and to avoid further expense, inconvenience and litigation, the parties desire to settle, compromise, and terminate this action and all claims asserted herein, regardless of the legal theory on which such claims may be based.

THE PARTIES AGREE TO THE FOLLOWING:

1. This Settlement Agreement shall be enforceable in the United States District Court for the District of Maryland by any of the parties acting alone or in concert, or by the American Civil Liberties Union, as representative of the Plaintiffs. This Court shall retain jurisdiction over the case for the purpose of enforcing this Agreement and shall retain jurisdiction over the subject matter of this Agreement until June 30, 1997, unless cause for extending jurisdiction as provided in Paragraph 10. In the event that such cause be shown, this Court shall retain jurisdiction until June 30, 1998.

2. The equitable provisions of this Agreement shall apply to and be binding upon the Maryland State Police and the Plaintiffs.

3. The undersigned representatives of the Plaintiffs and Defendants certify that they are fully authorized, subject to the Federal Rules of Civil Procedure, to enter into and execute the terms and conditions of this Agreement and to legally bind the parties; except that on behalf of the Defendants, the Agreement is contingent upon the approval of the Maryland Board of Public Works.

4. In the event that this Agreement, or any part hereof, is not approved by the Maryland Board of Public Works, this Agreement shall be null and void and Plaintiffs shall not be barred from further prosecution of this litigation.

5. All provisions of this Agreement shall take effect immediately upon ratification, unless otherwise provided herein.

6. It shall be the policy and practice of the Maryland State Police to prohibit the use of a race-based drug courier profile as a law enforcement tool. The Maryland State Police will adopt, implement, and publicize within 60 days of ratification of this Agreement a written policy statement articulating this policy and practice. In addition, this written policy shall direct all Maryland State Police sworn personnel not to participate in the use of any race-based drug profile as a cause for stopping, detaining, or searching motorists traveling on Maryland roadways. The policy shall specifically prohibit

consideration of race as a factor for the development of policies for stopping, detaining, or searching motorists. The written policy statement shall be distributed to all Maryland State Police sworn personnel as a Special Order from the Superintendent of the Maryland State Police, and MSP will enforce the policy through appropriate investigation and disciplinary action. Prior to publication, all materials generated pursuant to this ^{§4-55} paragraph shall be given to Plaintiffs' counsel.

7. Beginning January 1, 1995, the Maryland State Police shall conduct a training program that incorporates the written policy statement, and specific reference to the Maryland Court of Appeals holding in Derricott v. State of Maryland, 611 A.2d 592 (Md. 1992) ("Derricott") in relation to highway drug interdiction. This training program shall be mandatory for all Maryland State Police sworn personnel. All materials related to this training seminar shall be given to Plaintiffs' counsel prior to the commencement of the seminars.

8. Beginning immediately upon the ratification of this Agreement the Maryland State Police Academy training shall be revised to specifically include the contents of the policy statement and the Maryland Court of Appeals holding in Derricott.

9. Beginning January 1, 1995, and continuing at least until June 30, 1997, Defendant Maryland State Police will maintain computer records of all stops in which a consent to search is given by a motorist stopped on any Maryland roadway by Maryland State Police and all stops on any Maryland roadway by

Maryland State Police in which a search by a drug-detecting dog is made, minimally including in such records: date, time, and location of consent or search, name of officer(s) requesting consent to search or directing search by drug dog; race of person(s) stopped, detained or searched; year, make and model of vehicle; and grounds for requesting that consent to search be given or search by drug dog made, if any. All Maryland State Police officers shall receive instruction related to the completion and maintenance of these records by January 1, 1995. These computer records shall be made available to the Court with copies to counsel for Plaintiffs on a quarterly basis.

10. If after July 1, 1995, Plaintiffs, on the basis of the computer records provided by Defendant Maryland State Police or through other means, make a reasonable showing that there is a pattern and practice of making stops on the basis of race, Plaintiffs may then seek to require Defendant Maryland State Police to provide additional identifying information as part of the computer records kept pursuant to Paragraph 9 of this Agreement and the Court's jurisdiction shall be extended as provided in paragraph 1. Defendants shall be provided with an opportunity to challenge Plaintiffs' showing through reference either to statistics or other evidence. The decision as to whether there exists a reasonable probability of non-adherence necessitating additional identifying data rests with the monitoring Judge. If such data is ordered by the Court, the Court shall direct that the data be collected under seal as part

of an investigation for the benefit of the Court and not subject to public release. The Court may release such identifying data to counsel for Plaintiffs or the ACLU as required. In determining what information will be released the Court shall take into account the privacy rights of the individuals stopped and any provisions of Maryland law concerning disclosure of investigative records of a police agency.

11. The parties agree that promulgation of the policy described above, the training with respect to this policy, and the compilation of statistics are intended to make clear that it is the policy of the Maryland State Police that racial characteristics not be considered in requesting consent to search or in utilizing a canine for drug detection purposes. The parties recognize that despite the training, individuals may disregard or disobey the Maryland State Police policy, and this Settlement Agreement is not a guarantee against violation of the policy by individual troopers. Plaintiffs may show a violation of this Agreement either: (a) by establishing that defendants have failed to promulgate the policy described in paragraph 6, failed to provide the training described in paragraphs 7 and 8, or failed to collect the statistics as described in paragraphs 9 and 10; or (b) by showing that there is a pattern and practice of MSP stops conducted on the basis of race, for which the Maryland State Police could be held liable under 42 U.S.C. § 1983. The relief under this Agreement is limited to relief available for violating an injunction, and specifically does not include money

damages for individuals who are stopped. However nothing in this Agreement shall prohibit an individual from bringing an action alleging violation of constitutional rights growing out of an unlawful stop.

12. The parties agree that United States Magistrate Judge Catherine C. Blake will act as the monitoring Judge for purposes of this Settlement Agreement. If, for any reason, Judge Blake becomes unavailable for such purposes, the parties agree to accept, as monitor, whomever is assigned by the Court.

13. Upon approval by the Maryland Board of Public Works, each Plaintiff shall be awarded \$12,500 for a total award of \$50,000. Said award shall constitute a full and final satisfaction of the incident of May 8, 1992. Upon approval by the Board, Plaintiffs do hereby release the Defendants, their successors and assigns, the State of Maryland and any employee or official of the State from any further proceedings or liability for the incident herein described.

14. Upon approval of the Maryland Board of Public Works, attorneys' fees in the amount of \$45,600 shall be paid to counsel for Plaintiffs. Said award shall constitute a full and final satisfaction of all attorneys' fees due through the date of execution of this agreement and Plaintiffs may recover no further attorneys' fees from Defendants so long as Defendants remain in compliance with the terms of this Agreement. However, should Plaintiffs prevail at any hearing convened in accordance with paragraph 10 of this Agreement, or in conjunction with any action

to enforce this agreement, Plaintiffs' counsel shall be entitled to recover attorneys' fees in conjunction with said proceeding, consistent with 42 U.S.C. §1988.

IT IS HEREBY AGREED, BY AND BETWEEN THE PARTIES, THIS _____ DAY
OF DECEMBER, 1994.

Robert L. Wilkins
Robert L. Wilkins

Lawrence W. Tolliver
Col. Lawrence W. Tolliver
Superintendent, MSP

Nu'Man W. El-Amin
Nu'Man W. El-Amin

Norman Scott El-Amin
Norman Scott El-Amin

Aquila Abdullah
Aquila Abdullah

David A. Hill
David A. Hill
Counsel for Plaintiffs

Richard B. Rosenblatt
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Counsel for State Defendants

Deborah A. Jeon
Deborah A. Jeon
Counsel for Plaintiffs

Steven C. Wilkinson
Steven C. Wilkinson
Counsel for Defendant Allegany
County

Approved: Catherine C. Blake
Catherine C. Blake
U.S. Magistrate Judge

Approved: Marvin J. Garbis
Marvin J. Garbis
U.S. District Judge

Jan 5, 1995