



U.S. Department of Justice

Civil Rights Division

SYBC:MN:DD:CC:TRS:CA
DJ 168-40-54

Special Litigation Section - PHB
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

April 3, 2003

via First Class Mail

Mr. John McWilliams
105 South Main Street
Drew, Mississippi 38737

Re: United States of America v. Sunflower County,
Mississippi, 4:95cv122-B-O

Dear Mr. McWilliams:

We are pleased to enclose a signed, stamp-filed copy of the Stipulation Amending Consent Order approved by Judge Neal Biggers. We have not received a quarterly report in some time. It would be greatly appreciated if you would provide us with one as soon as possible. In the quarterly report, please advise whether the Jail Administrator, Mr. Moore, attended the NIC course for small jail administrators. Also, we would like to be apprized of the progress Sunflower County Jail is making towards adopting an objective classification plan.

Again, thank you for your cooperation in reaching this agreement. If you have any questions, please do not hesitate to contact either myself or David Deutsch at (202) 514-6270.

Sincerely,

Tammi R. Simpson
Attorney
Special Litigation Section
(202) 616-7229

Enclosure

FILED

MAR 13 2003

ARLEN B. COYLE, CLERK
BY *[Signature]* Deputy

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
SUNFLOWER COUNTY, MISSISSIPPI, et al.)
)
)
Defendants.)

No. 4:95cv122-B-O

STIPULATION AMENDING CONSENT ORDER

I. Introduction

This action was brought by the United States of America ("the United States") pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997, to rectify conditions of confinement that allegedly violated the constitutional and federal statutory rights of inmates housed in Sunflower County Jail ("Sunflower Jail"). A Consent Order was approved by this Court on April 24, 1995. Officials associated with Sunflower Jail have worked with the United States regarding compliance with the Consent Order's provisions. The United States and its expert consultants periodically have toured Sunflower Jail and identified certain remedial measures necessary to bring the defendants into full compliance with the Consent Order.

In the interest of expediting a mutually satisfactory resolution of this litigation, the United States and Sunflower County, Mississippi's Board of Supervisors, Sheriff, their agents and successors in office (collectively "Sunflower County") stipulate and agree that the Consent Order

filed April 24, 1995, shall be amended as follows, with the understanding that Sunflower County shall implement this stipulation within six months of filing unless otherwise specified:

II. Fire Safety

1. Sunflower Jail staff shall be trained annually with the assistance of the local fire department on the use of the Self Contained Breathing Apparatus (SCBA). The SCBA also must be secured in an easily accessible location.

III. Classification

1. Sunflower Jail shall provide the Department of Justice ("DOJ") with a schedule for implementing a revised classification system immediately following the training of the Jail Administrator (see below), and any anticipated changes to the revised system. Such plan and its implementation shall be subject to DOJ approval. At a minimum, the County shall provide for the implementation of the new classification system within six months from the execution of this Stipulation.

2. Sunflower Jail shall adopt an objective classification system in order to meet current professionally accepted standards. The objective classification system shall provide for the implementation of procedures for assigning vulnerable, assaultive or special management inmates to appropriate secure housing which shall include a number of single-occupancy cells.

3. The revised classification system shall, at a minimum, incorporate the following changes:

a) A process to ensure that major events trigger automatic reclassification;

b) A system of warning flags that alert intake workers of specific indicators in the records of an inmate's past incarceration, which, if present, require immediate referral to medical staff. The indicators shall include, at a minimum:

- i) Diagnosis or treatment for mental illness at any time during a past incarceration;
- ii) Diagnosis or treatment for serious chronic illness, including but not limited to diabetes, hypertension, heart disease, seizure disorders, tuberculosis or HIV infection;
- iii) Placement on heightened observation for suicide risk at any time during a past incarceration at Sunflower; and
- iv) Any medical contraindications for the use of chemical sprays.

c) The Jail Administrator shall successfully complete the March 2003 National Institute of Corrections' classification course. Similar training shall be required of all future Jail Administrators.

d) After successfully completing the course, the Jail Administrator shall train all other Sunflower Jail staff.

IV. Jail bed space and Overcrowding

1. Sunflower Jail shall provide inmates housed in the cell for persons under the influence a clean surface off of the floor on which to sit or sleep (e.g., "stack-a-bunks").

V. Staffing and Operational/Security Procedures

1. Sunflower Jail shall make suicide prevention improvements to the women's cell. To that end, Sunflower County shall remove all cell front metal bars, and protruding shower rods

and fixtures from the women's cell area. In addition, Sunflower Jail shall provide housing for women with acute mental health issues by ensuring that, at a minimum, one of the women's cells is suicide resistant. A cell may be converted by using plexi-glass with ventilation holes in the door opening as opposed to the metal bars.

2. Sunflower Jail shall purchase three hand-held metal detectors to aid in searches of the trustees upon their return inside the jail from the outside tool shed/workshop area.

3. Sunflower Jail shall ensure the provision of appropriate cleaning and personal protective equipment, such as one or more "spill kits" placed in the control room. Sunflower Jail shall also institute training on preventing transmission of blood borne pathogens and general sanitation issues. In consultation with Sunflower Jail's contract medical physician and the local health authority, Sunflower Jail shall draft and implement a written infection control program to ensure compliance with contemporary universal precaution procedures in all of its operations.

4. Sunflower Jail shall ensure during the day and evening shifts that rounds will be conducted at least once every half hour at irregular intervals (e.g., 20, 25, 30, 15 minutes), and shall include a logged, visual inspection of all housing areas.

5. Sunflower Jail shall have two sets of emergency keys located in secure, accessible areas for the staff (e.g., the Jail Administrator's office and the dispatcher's room).

6. Sunflower Jail shall purchase a "911" emergency cutting tool and provide staff training in its use and storage in a secure and accessible place.

VI. Maintenance and Sanitation

1. Sunflower shall appoint a correctional officer to be the fire safety officer. This officer shall receive additional training in fire safety and prevention and be responsible for

training other staff. Sunflower County shall appoint a correctional officer to be the environmental health officer. This officer shall receive additional training in environmental health and safety and shall work with the local health department to ensure proper sanitation of the physical plant. Sunflower Jail shall submit to DOJ within 100 days a written plan regarding the procedures for the appointment or hiring of these officers and plan implementation.

2. Sunflower Jail shall replace all worn and cracked pillows and mattresses with new institutional, fire resistant mattresses having staph-check covers. The environmental health and safety officer shall regularly inspect inmate pillows and mattresses and replace them as needed.

3. Sunflower Jail shall adjust immediately the water temperatures in the housing areas and at the hand washing sinks in the kitchen and ensure they are kept at safe temperature levels.

4. Sunflower Jail shall repair or replace non-working monitoring cameras.

5. If Sunflower Jail continues to house inmates in a cell called the "lunacy cell," as permitted by state law, then the broken window, and damaged wall and floor in the cell must be repaired immediately and the cell made suicide resistant.

VII. Security and Safety Within Food Service

1. Sunflower Jail shall hire a second permanent food service employee.

2. Sunflower Jail shall not allow inmates to work in the kitchen without being supervised by an employee trained in food safety and food handling. Inmates should not be permitted to supervise other inmates.

3. Sunflower Jail shall ensure that food service staff are trained in food service operations, safe food handling procedures, proper sanitation; and receive pre-service training relating to security, emergency evacuation and blood borne pathogen concerns. Inmate food

service workers shall receive training in principles of safe food handling and sanitation.

Sunflower Jail may seek to arrange this training through the local health department.

4. Sunflower Jail shall ensure that inmate meals are reviewed and certified annually in writing by a registered dietician as nutritionally adequate. The dietician also shall review all special medical diets as often as necessary. Sunflower Jail shall provide support to its food service manager and ensure that nutritionally adequate menu substitutions are made on those occasions when specified menu items are unavailable. Substitutions or variations from the menu shall be noted and retained.

VIII. Medical and Mental Health Services

1. Sunflower Jail shall provide to DOJ updated policies and procedures related to medical and mental health services. These policies and procedures shall be revised by the medical staff in consultation with the local health department and jail administrator to ensure that the policies are current and shall be submitted to DOJ for approval prior to implementation. Sunflower Jail shall ensure continuation of prescription medications within 24 hours of intake and shall comply with current standards to screen inmates for infectious disease. Sunflower shall promptly implement the approved policies and procedures.

2. Sunflower Jail shall provide mental health evaluations for all inmates whose histories or whose responses to initial screening questions indicate a need for such an evaluation; develop a contractual relationship with the local mental health provider; and provide timely and appropriate referrals for specialty care.

3. Sunflower Jail shall have a medical records professional review and revise their current medical records management system. Sunflower Jail's contract medical professionals

shall be involved in this review. Sunflower Jail shall use current forms regarding potential suicide risks and ensure that medical personnel place them in the inmates' medical files.

4. The Facility Physician and the Nurse shall be responsible for managing the medication delivery system, including but not limited to, creating the system, training jail staff on procedure, and ongoing monitoring. The Facility Physician and the Jail Administrator shall explore the feasibility and practicality of implementing an Inmates Self-Medication Program, a/k/a "Keep-on-Person" Program. Eligible inmates for this program include inmates on short term therapy for antibiotics, inmates needing medications for chronic problems such as diabetes, and inhalers for people who have asthma.

5. Sunflower Jail shall ensure that the facility physician reviews medications every 30 days and maintains a flow sheet for each visit.

6. Sunflower Jail shall ensure that sick call request forms are reviewed by qualified medical staff within 24 to 48 hours or 72 hours if requested over a weekend (and if a non-emergency).

7. Sunflower County shall provide sufficient qualified medical and mental health staff to respond promptly to requests from security staff for medical information and treatment, including, without limitation, assessment and monitoring of inmates identified at intake by the medical alert warning system described in paragraph 1, above; and identification of inmates for whom the use of chemical agent sprays is medically contraindicated.

8. Sunflower Jail shall ensure that all staff receive annual training on suicide prevention.

IX. Exercise and Recreation and Hygiene Issues

1. Sunflower Jail shall ensure that inmates are permitted outdoor recreation in accordance with the Consent Order, however, Sunflower Jail shall not continue its current practice of allowing inmates of varying classifications to exercise together in the outdoor recreation yard.

2. Sunflower Jail shall ensure that female inmates are given the opportunity to exercise in the outdoor recreation yard as often and for the same period of time as male inmates. This shall be done in a manner that will not allow interaction between the male and the female inmates.

3. Sunflower County shall ensure that personal hygiene items, including an adequate supply of soap, hair shampoo, toothbrushes, toothpaste, toilet paper, a comb, deodorant, shaving equipment, and feminine hygiene products are made available, as necessary, to every inmate. Sunflower Jail shall review and assess its compliance with this requirement at least twice annually, including a review of inmate grievances concerning hygiene items.

X. Grievances

1. Sunflower Jail shall make available grievance forms in all housing units at all times without the need to request one from a staff member. Sunflower Jail shall provide a secure and confidential method for delivery of grievances, such as a secure lockbox in an area accessible to inmates.

2. Sunflower Jail shall continue to record and maintain records of inmate grievances, including dispositions, for a minimum of one year. Sunflower Jail shall ensure that inmate grievances are investigated and responded to within a reasonable time frame. This process also

should be documented on the form and made a part of the inmate's official jail file. Inmates shall be provided at least one level of appeal to Sunflower's Board of Supervisors. Sunflower Jail shall not retaliate against inmates who file grievances or appeals, and shall not limit an inmate's ability to file repetitive grievances, except as consistent with state law. In appropriate cases, the response to a repetitive filing may be a reference to an earlier response.

3. Sunflower Jail shall periodically review inmate grievances and the disposition of these grievances to identify trends or emergent problems that may require a management response.

XI. Stipulation Pursuant To The Prison Litigation Reform Act, 18 United States Code Section 3626

1. The United States and Sunflower County stipulate that this Stipulation complies in all respects with the provisions of 18 U.S.C. § 3626(a). For purposes of this lawsuit only and in order to settle this matter, the defendants stipulate that they have violated the federal rights of inmates as alleged above. The parties further stipulate and agree that the prospective relief in this Stipulation is narrowly drawn, extends no further than necessary to correct the violations of federal rights set forth in the Complaint, is the least intrusive means necessary to correct these violations, and will not have an adverse impact on public safety or the operation of a criminal justice system. Accordingly, the parties agree and represent to the Court that the Stipulation complies in all respects with the provisions of 18 U.S.C. § 3626(a), and may serve as the factual and legal basis for a court order issued pursuant to those provisions. The parties agree this Stipulation is not an admission of liability regarding any other litigation.

2. The issue of liability has not been litigated. The parties ask the Court to approve this Stipulation without a full hearing on the merits, on the basis of the stipulation above in paragraph

XI, Section 1.

3. This Stipulation is not intended to have any preclusive effect except between the parties. Nothing herein is intended to or shall be construed to become an admission, to create or serve as an independent basis for any standing, cause of action, claim, grievance, or other right in or for any entity other than Plaintiff and Defendants.

This Stipulation shall be submitted to the United States District Court for the Northern District of Mississippi and shall, upon approval, become enforceable as an order of the Court. All provisions of the Consent Order approved by this Court on April 24, 1995 that do not conflict with this Stipulation shall remain in full force and effect.

FOR THE UNITED STATES:

RALPH F. BOYD, JR.
Assistant Attorney General
Civil Rights Division

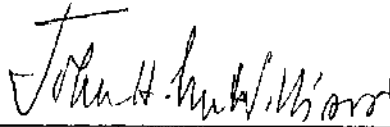


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WHEREFORE, the provisions of the foregoing Stipulation, having been agreed to by the parties to this action, are hereby approved and entered as an Order of this Court.

APPROVED AND SO ORDERED this 10 day of March, 2003.

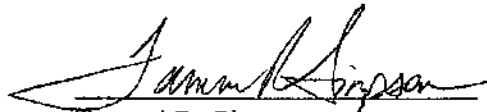


Honorable Neal B. Biggers
United States District Court
Northern District of Mississippi
911 Jackson Avenue, Room 388
Oxford, MS 38655-3622

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the STIPULATION AMENDING
CONSENT ORDER has been made this 26th day of February, 2003, by sending a copy
thereof via first-class mail, postage pre-paid, to the following counsel of record:

John H. McWilliams, Esquire
Townsend, McWilliams & Holladay, LLP
P.O. Box 288
Drew, Mississippi 38737
(662) 745-8517

A handwritten signature in black ink, appearing to read "Tammi R. Simpson", written over a horizontal line.

Tammi R. Simpson
Trial Attorney
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