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

DEC 10 9 52 AM '82
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Thomas Hull, et. al.,	:	
Plaintiffs,	:	Cause No. C-2-80-101
-vs-	:	<u>CLASS ACTION</u>
John Hicks, et. al.,	:	
Defendants.	:	

CONSENT DECREE

This is a civil rights action for money damages and for declaratory and injunctive relief, brought pursuant to 42 U.S.C. Section 1983. This Court certified the case as a class action on March 5, 1981, and ordered the action to proceed on behalf of all juveniles under the age of eighteen who have been or will be confined in the Athens County Juvenile Detention Center since September 1, 1978.

Plaintiffs allege that their detention in the Athens County Juvenile Detention Center or in the Athens County Jail violated certain of their constitutional and statutory rights. Defendants deny plaintiffs' allegations, and do not by their consent to the entry of this Decree admit to any violations of any of the plaintiffs' rights.

The parties have engaged in settlement discussions and on the 12th day of November, 1982, the named plaintiffs, through their respective counsel, for themselves individually and on behalf of the class, applied to this Court for authority to settle this action. Pursuant to the application of the parties to settle, a settlement agreement was entered into on the 9th day of November, 1982. That settlement agreement was conditioned upon the plaintiffs' class filing an application with this Court for authority to settle the matter and the Court, upon hearing,



concluding that the settlement was fair and reasonable, authorizing the approval of the settlement by adopting the within Consent Decree.

Pursuant to an application to settle and this Court's Order of November 18, 1982, fixing the matter for hearing on the 14th day of December, 1982, and the appropriate notice having been given pursuant to that Order, the Court finds:

After testimony in open court and all interested class members having been given notice of an opportunity to be heard in support of, or in opposition to, the proposed settlement, and Q class members having appeared in Court pursuant to said notice, the Court finds, pursuant to Rule 23(e) that notice likely to apprise all interested class members of the pendency of the action and settlement of their rights against the defendants has been given; further the Court finds,

That the proposed settlement is fair and reasonable as to all parties including all members of the class.

DETENTION OF JUVENILES

Now, therefore, the parties hereby agree and consent to this Court's Order that the defendants, their successors in office, agents and employees shall not detain any juveniles in any facility and in any manner except as expressly provided in this section of this Decree. "Detention" for purposes of this Decree is defined in Rule 2(6) of the Ohio Rules of Juvenile Procedure; i.e. the temporary care of children in restricted facilities pending court adjudication or disposition, or execution of a court order.

1. Conference Room

The room now known as the Conference Room in the Athens County Jail, being a room totally separate and removed by sight

and sound from adult detainees, which is located adjacent to the booking desk, shall be used for the temporary detention of juveniles as provided in this Decree. The Conference Room shall be equipped with one portable cot and one fixed cot, window blinds which may be raised or lowered from the outside, a sound proofed door, and an intercom system connecting the room to the booking desk. Such blinds shall be drawn when said room is being used by juveniles. The intercom must be capable of being turned off at the booking desk. No bars, screens or gates may be installed in this Conference Room.

Nothing in this Decree shall be construed to prohibit the use of the Conference Room for purposes other than the detention of juveniles, except when a juvenile is actually being detained in the room.

2. Other Facilities

Except for the Conference Room, no room or cell in the Athens County Jail or in any other adult secure detention facility shall be used for the detention of juveniles. The former Athens County Juvenile Detention Center has not been used since August 6, 1981, for the detention of juveniles and shall not be used for the detention of juveniles. No other juvenile detention facility shall be used except as provided in paragraph 5 of this Decree.

3. Intake-Admissions Officers

The Judge of the Court of Common Pleas of Athens County, Juvenile Division, has appointed intake-admissions officers which said appointments are recognized by the parties and this Court. Hereafter, the Judge of the Court of Common Pleas of Athens County, Juvenile Division, shall appoint and re-appoint as necessary intake-admissions officers. The Sheriff of Athens County, Ohio, having requested of the Judge of the Court of Common Pleas of Athens County, Juvenile Division that said intake-admissions officers and future intake-admissions officers

not be any law enforcement or corrections officer, the Judge of the Court of Common Pleas of Athens County, Juvenile Division hereby approves said request and so orders. This Order of the Judge of the Court of Common Pleas of Athens County, Juvenile Division, is hereby incorporated and made a part of this Decree. The intake-admissions officers shall be under the direct control and supervision of the Juvenile Judge, and shall be paid out of the budget of the Juvenile Court, which will be provided by the Athens County Commissioners. One of the intake-admissions officers shall be on call and available 24 hours per day. The intake-admissions officers shall have the responsibility of determining whether a juvenile should be detained prior to a detention hearing, in accordance with the paragraphs 5 and 6 of this Decree.

4. Initial Procedure

A. Duties of Arresting Officer

A law enforcement officer or juvenile court official taking a juvenile into custody in Athens County shall, if he or she believes that the detention of the juvenile is required under Ohio law, immediately deliver the juvenile to the booking area of the Athens County Jail. Said law enforcement officer or juvenile court official taking the juvenile into custody shall then prepare a signed report stating why the juvenile was taken into custody and why he was not released to his parent, guardian, custodian or other suitable person.

B. Duties of Corrections Officer

Upon delivery of a juvenile to the booking area, a corrections officer at the jail shall immediately notify one of the intake-admissions officers. The corrections officer shall then make a diligent effort to contact the juvenile's parent, guardian, custodian, or other suitable person and inform him or her that the juvenile has been taken into custody, if this has not already been done.

Pending a detention decision by the intake-admissions

officer, the corrections officer shall place the juvenile into the Conference Room, and shall follow the procedures for use of that room contained in paragraph 7 of this Decree.

C. Duties of Intake-Admissions Officer

Upon notification of the receipt of a juvenile by a corrections officer, the intake-admissions officer shall review the facts of the case by telephone with the arresting officer and with the corrections officer. If, applying the standards delineated in paragraphs 5 and 6 of this Decree, the intake-admissions officer determines that detention is not warranted, he or she shall order the immediate release of the juvenile by telephone.

If, applying the standards delineated in paragraph 5 of this Decree, the intake-admissions officer determines that detention in an approved out of county facility is warranted, he or she may order by telephone that the juvenile be transported immediately to an out of county facility. If, applying the standards delineated in paragraph 6 of this Decree, the intake-admissions officer determines that detention in the Conference Room may be warranted, he or she shall personally go to the jail. If, after personally interviewing the juvenile and reviewing the written report of the person taking the juvenile into custody, the intake-admissions officer determines that detention in the Conference Room is warranted under the standards delineated in paragraph 6 of this Decree, he or she may order the juvenile be detained in the Conference Room.

When a juvenile has been detained in accordance with this Decree, the intake-admissions officer, in accordance with Rule 7 of the Ohio Rules of Juvenile Procedure, shall:

(1) Prepare a report stating the time the juvenile was brought to the facility and the reason he or she was admitted, and provide a copy of the same to the Sheriff;

(2) Advise the juvenile of (a) his right to telephone his parents and counsel immediately and at reasonable times thereafter and (b) the time, place and purpose of the detention hearing; and

(3) Assure himself that either the arresting officer or the corrections officer has contacted or is using reasonable diligence to contact the juvenile's parent, guardian or custodian and advise him or her of:

- (a) The place of and reasons for detention;
- (b) The time the juvenile may be visited;
- (c) The time, place and purpose of the detention hearing; and
- (d) The right to counsel and appointed counsel in the case of indigency.

5. Standards for Pre-Hearing Detention in Approved Out of County Facilities

Pursuant to Rule 7 of the Ohio Rules of Juvenile Procedure the intake-admissions officer may order a child be detained, pending a detention hearing, in the South Central Ohio Regional Juvenile Detention Center, Chillicothe, Ohio, in the Muskingum County Juvenile Detention Center, Zanesville, Ohio, in the Franklin County Detention Hall, Columbus, Ohio, in the Five County Joint Detention Center, Marysville, Ohio, in the Tuscarawas Detention Center, New Philadelphia, Ohio, in the Clark County Juvenile Detention Center, Springfield, Ohio, in the Multi County Juvenile Attention System, Canton, Ohio, if he or she makes any of the following determinations under Rule 7 of the Ohio Rules of Juvenile Procedure.

- A. That detention is required to protect the person or property of others or those of the child; or
- B. That the child may abscond or be removed from the jurisdiction of the court; or
- C. That the child has no parent, guardian or custodian or other person able to provide supervision and care for him and return him to the court when required.

6. Standards for Pre-Hearing Detention in the Conference Room of the Athens County Jail

Pursuant to Ohio Revised Code Section 2151.312, the intake-admissions officer may order a juvenile be detained pending

a detention hearing in the Conference Room of the Athens County Jail if he or she make all of the following determinations:

A. That the juvenile is over the age of fifteen years; and

B. That the public safety and protection requires detention; and

C. That the juvenile will not be detained in the Conference Room for longer than 14 hours unless emergency weather conditions so require.

7. Use of the Conference Room

When the Conference Room is to be used to detain a juvenile, a corrections officer shall do the following:

A. Search the juvenile only by a pat-down method. Strip searches or body cavity searches of juveniles are prohibited.

B. Inventory and retain the juvenile's personal possessions, except clothing. Juveniles shall be allowed to wear their own clothing while in the Conference Room.

C. Ensure that each juvenile in the Conference Room is provided with a cot and that the intercom is turned on prior to placing the juvenile in the room. Nothing in this paragraph shall be construed as authorizing more than two (2) juveniles to be held in the Conference Room at the same time.

D. Maintain complete separation by sight and sound from all adult prisoners, including trustees. When adult prisoners are being booked, this will require that the window blinds in the Conference Room be drawn. Trustees are not permitted to serve food to juveniles or to have contact with them in any manner.

No more than two juveniles are to be detained in the Conference Room at the same time.

8. Transportation to Out of County Facilities

If the intake-admissions officer determines that a juvenile should be detained in the out of county facilities

enumerated in paragraph 5, he or she shall immediately notify the Sheriff who shall transport the juvenile to such facility.

9. Fingerprinting and Photographing

Juveniles will be fingerprinted or photographed only in accordance with Ohio Revised Code Section 2151.313.

10. Medical Attention

If at any time it appears that a juvenile is in need of medical attention, he or she shall immediately be transported to the appropriate medical facility.

11. Intoxicated Juveniles

Juveniles who appear to be intoxicated from alcohol or other drug shall be immediately transported to the detoxification facility at Doctors Hospital in Nelsonville or to the Emergency Room at O'Bleness Memorial Hospital in Athens by the arresting officer.

12. Notification of Law Enforcement Agencies

Defendants shall mail to all law enforcement agencies in Athens County a copy of this Decree and the procedures to be used in detaining juveniles.

13. Monthly Exchange of Information

The Sheriff shall mail to counsel for plaintiffs and to this Court on a monthly basis photocopies of: (1) the written reports of the arresting officer required by paragraph 4(A) of this Consent Decree, and (2) the written reports of the intake-admissions officer required by paragraph 4(C) of this Consent Decree, and (3) the Prisoner's Jail Record Card compiled for each detained juvenile until further order of this Court.

14. Continuing Jurisdiction; Modification

The Court will retain continuing jurisdiction over this case for purposes of assessing compliance with this Decree. This Decree may be modified either by agreement of the parties with leave of the Court or by order of this Court issued upon Motion of any party after notice and hearing thereon, for good cause shown.

SETTLEMENT OF PLAINTIFFS' CLAIMS
FOR MONETARY DAMAGES

The Court finds that counsel for the class has adequately noticed individual class members of their right to assert a claim for money damages arising out of their detention in the Athens County Juvenile Detention Center or the Athens County Jail. The failure of any class member to assert such a claim in writing to this Court or to any of the below-named individuals at the addresses provided by the 21st day of December, 1982, shall forever bar the assertion of such a claim. The addresses are as follows:

Ms. Susan L. Gwinn
GWINN & WALLACE
85 North Court Street
Athens, Ohio 45701

Mr. Denis J. Murphy
CARLILE PATCHEN MURPHY & ALLISON
100 East Broad Street
Columbus, Ohio 43215

United States District Court
Southern District of Ohio, Eastern Division
85 Marconi Boulevard
Columbus, Ohio 43215

The parties agree to negotiate the settlement of all timely asserted claims on or before the 21st day of December, 1982. If all claims cannot be settled by that date, the parties agree to submit the claims to a Magistrate of this Court for determination.

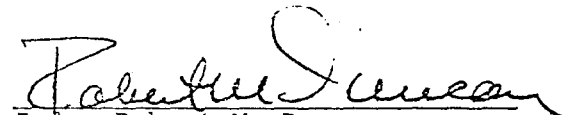
ATTORNEYS FEES AND COSTS

Counsel for plaintiffs shall, pursuant to the Civil Rights Attorneys Fees Awards Act of 1976, 42 U.S.C. Section 1988, within 14 days of the filing of this Decree submit to the Court their claims and data supporting the same for attorneys fees and costs. Counsel for defendants shall then have 14 days to request a hearing on plaintiffs' motion for attorneys fees and costs. If the Court receives no request for hearing it will allow such attorneys fees and costs as it deems reasonable in accordance with law.

If all of plaintiffs' claims for monetary damages have

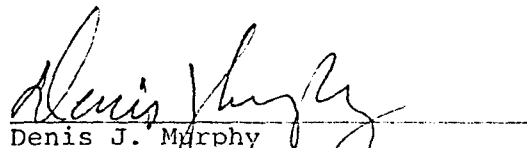
not been either settled by the parties or determined by a Magistrate by the date of the filing of this Decree, counsel for plaintiffs may submit a supplemental claim for attorneys fees and costs arising out of the settlement or determination of those claims within 14 days of the last such settlement or determination. The supplemental claim shall be subject to the same hearing procedures as the initial claim.

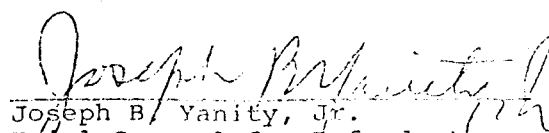
The parties agree that no defendant shall be held individually liable for the payment of attorneys fees, costs and damages and that any attorneys fees, costs and damages ordered by this Court to be paid shall be paid by the County of Athens.


Judge Robert M. Duncan

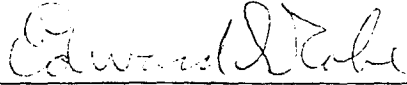
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