



PC-UT-003-006

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OFFICE OF JUDGE
BRUCE S. JENKINS

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
U.S. DISTRICT COURT
CENTRAL DIVISION

SANDRA HENRY, on behalf of
herself and others similarly
situated,

Plaintiff,

vs.

GARY W. DELAND, Director, Utah
Department of Corrections; O.
LANE McCOTTER, Director of
Institutional Operations,
Department of Corrections;
LYNN JORGENSEN, Warden, Utah
State Prison; DANIEL LEATHAM,
Bureau Chief of Support
Services, Utah State Prison;
RUSSELL STEVENSON, Director of
Medical Facilities, Utah State
Prison; BLEN FREESTONE,
Assistant Director of Medical
Facilities, Utah State Prison;
GERALD O'BRIEN, Assistant
Director of Medical
Facilities, Utah State Prison;

Defendants.

No. 89-C-1124 J

FINAL ORDER APPROVING AND
IMPLEMENTING STIPULATION OF
SETTLEMENT OF MEDICAL AND
DENTAL CLAIMS

Judge Bruce S. Jenkins

This matter came before the Honorable Bruce S. Jenkins on May 7, 1993, at 9:30 a.m., for the final hearing regarding the parties' request for approval of their Stipulation of Settlement of Medical and Dental Claims, dated January 23, 1993 (the "Settlement"). Cullen Battle and Kathleen H. Switzer appeared for Plaintiff; Kirk M. Torgensen, Assistant Attorney General,

appeared for all Defendants. The Court heard testimony from Plaintiff's expert, Albert J. Raymond, M.D., in support of the Settlement. The Court also received into evidence exhibits submitted by Plaintiff supporting the Settlement. Based upon the arguments and evidence presented at the hearing, the Court enters this order approving and implementing the Settlement.

I. RECITALS

1. On December 18, 1989, Plaintiff Sandra Henry brought this action on her own behalf and on behalf of all inmates (the "Class Members") who were then confined or who might be confined in the future at the Utah State Prison at Draper, Utah (the "Prison");

2. On December 21, 1989, this case was referred to the Magistrate pursuant to 28 U.S.C. § 636(b)(1)(B);

3. On February 21, 1990, Defendants answered Plaintiff's Complaint, denying liability and raising several legal and factual defenses;

4. On April 24, 1990, the Court certified this action as a class action under the provisions of Rule 23(b)(1)(A) and (b)(2) of the Federal Rules of Civil Procedure;

5. Plaintiff sought injunctive relief against officials at the Prison acting in their official capacities. Plaintiff alleged violations of the Eighth and the Fourteenth Amendments to the U.S. Constitution, based upon alleged system-wide inadequacy of medical and mental health care provided to Class Members during their incarceration at the Prison;

6. Defendants have consistently, and presently, deny that constitutional deficiencies existed, or exist, in the medical and mental health care provided to the class from the time this suit was filed to the present;

7. On January 23, 1993, Plaintiff and Defendants executed the Settlement, which proposed to settle all remaining claims of the Plaintiff and the Class Members regarding medical and dental health care at the Prison;

8. At a preliminary hearing on February 11, 1993, the Court approved a Plan for Notice to Class Members of the proposed Settlement;

9. An individual copy of the notice was delivered to every inmate at the Prison on March 5, 1993. All new and re-incarcerated inmates at the Prison received a copy of the notice with their regular orientation materials through April 1, 1993. In addition, all housing units (i.e. living areas) at the Prison contained an exact copy of the full text of the Settlement, which was made available to all inmates upon request;

10. On April 26, 1993, Plaintiff certified to the Court that twenty-six Class Members submitted written responses and objections to the proposed Settlement. Plaintiff provided certified copies of those responses and objections to the Court.

II. FINDINGS AND CONCLUSIONS

1. During the final hearing, Defendants represented to the Court that they had timely complied with the Plan for

Notice. Based upon that representation the Court finds that Class Members received adequate notice of the Settlement under Rule 23(e) of the Federal Rules of Civil Procedure.

2. Pursuant to the Settlement, Defendants agree that the Prison has a legal obligation to provide adequate medical and dental services to Class Members.

3. The Settlement addresses substantive medical and dental treatment issues such as reception and orientation of new inmates to the prison health care system; training of all staff members; referring inmates to health care providers; providing various levels of health care to inmates; ensuring adequate staffing; providing in-patient beds; ensuring access to licensed health care professionals; providing medical services and a computerized tracking and monitoring system for inmates with medical problems; providing dental services and a computerized tracking and monitoring system for inmates with dental problems; providing support services; providing health education for inmates; maintaining medical records; developing and adopting policies and procedures to administer medical and dental services; and establishing a quality improvement committee to conduct quality assurance reviews. The Settlement also addresses compliance issues, such as the period for compliance, on-site visits to assess compliance, and periodic reports on Defendants' progress toward compliance.

4. The Settlement will bind the rights of all Class Members in seeking injunctive relief for medical and dental

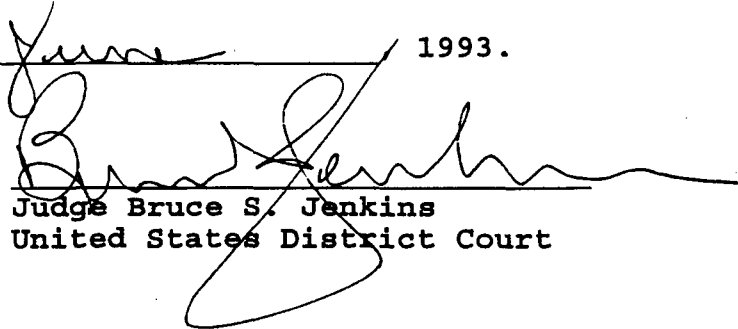
claims. However, the Settlement will not affect the rights of any inmate to bring an individual lawsuit for monetary damages.

5. Based upon the above, and pursuant to Federal Rule of Civil procedure 23(a), the Court finds the Settlement is fair, reasonable, adequate and in the best interests of the Class Members.

III. ORDER

WHEREFORE, having thoroughly considered these matters, the Court now approves the Settlement and ORDERS that it be implemented in all respects. All terms of the Settlement are incorporated into this Order. The Court shall retain jurisdiction over this case for purposes of enforcing the Settlement, as provided for in the Settlement. This Order is binding upon Plaintiff, all Class Members, and all Defendants in their official capacities and upon all persons subsequently acting in those capacities. The effective date of the Settlement shall be the date of this Order.

DATED this 1 day of June 1993.



Judge Bruce S. Jenkins
United States District Court

APPROVED AS TO FORM AND CONTENT:

Kirk M. Torgensen
Kirk M. Torgensen
Frank D. Mylar
Assistant Attorneys General

Kathleen H. Switzer
W. Cullen Battle
Kathleen H. Switzer
Attorneys for Plaintiff

United States District Court
for the
District of Utah
June 3, 1993

* * MAILING CERTIFICATE OF CLERK * *

Re: 2:89-cv-01124

True and correct copies of the attached were mailed by the clerk to the following:

Frank D Mylar, Esq.
UTAH ATTORNEY GENERAL
330 S 300 E
Salt Lake City, UT 84111

Allan L Larson, Esq.
SNOW, CHRISTENSEN & MARTINEAU
10 Exchange Place 11th Floor
P.O. Box 45000
Salt Lake City,, UT 84145

Mary A Rudolph, Esq.
455 E 400 S, #201
Salt Lake City, UT 84111

Alexa P. Freeman, Esq.
NATIONAL PRISON PROJECT OF THE ACLUF, INC.
1875 Connecticut Avenue, NW, Suite 410
Washington, DC 20009

W. Cullen Battle, Esq.
FABIAN & CLENDENIN
215 S State, #1200
P.O. Box 510210
Salt Lake City, UT 84151

Richard W. Jones
Utah State Prison
PO Box 250
Draper, UT 84020

Frank Lupinacci Jr.
Utah State Prison
PO Box 250
Draper, UT 84020

Terry Oliver
Utah State Prison
PO Box 250
Draper, UT 84020

Alexa P. Freeman, Esq.
NATIONAL PRISON PROJECT OF THE ACLUF, INC.
1875 Connecticut Avenue, NW, Suite 410
Washington, DC 20009

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