

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHIGAN PROTECTION & ADVOCACY
SERVICE, INC., Case

No. 5:05-CV-0128

Plaintiff, Hon.

Paul L. Maloney

v

PATRICIA L. CARUSO, in her official capacity as
Director, Michigan Department of Corrections,

Defendant.

Mark A. Cody (P42695)
Michigan Protection & Advocacy Service, Inc.
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(517) 487-1755 Lansing,
Attorney for Plaintiff (517)

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STIPULATION FOR STAY

COME NOW the parties, through their undersigned counsel and stipulate and agree as follows:

1. On August 12, 2008, with the consent of the parties, the Court entered an Order staying this matter through August 31, 2009.

2. The purpose of the stay was to give the parties time to develop, implement, and monitor the terms of an action plan that had been negotiated by the parties under the supervision and assistance of the Magistrate Judge.

3. This action plan details a significant number of measures to be undertaken by the Defendant to address allegations about the treatment of inmates with mental illness, including the allegations in the Plaintiff's amended complaint.

4. By agreement of the parties, the implementation of the action plan has been monitored by the Joint Monitors, Joel Dvoskin, Ph.D., chosen by the Plaintiff and Lee Rome, M.D., chosen by the Defendant.

5. The Joint Monitors have completed five tours of Defendant's facilities and have prepared and distributed a total of six reports to the parties. The Joint Monitors are in the process of preparing a seventh report, following their most recent tour of MDOC facilities.

6. The development and implementation of the action plan, among other of MDOC's activities, has led to significant modifications in the treatment of prisoners with mental illness, including, but not limited to:

- A. Improved identification of prisoners with mental illness and thus an increase in referrals to the Corrections Mental Health program for treatment;
- B. Fewer prisoners with mental illness being placed in administrative segregation;

- C. Training of MDOC staff in understanding mental illness and its signs and symptoms; and
- D. Creation of programs to lessen the length of time prisoners are in administrative segregation through providing incentives to segregation prisoners to improve behavior and thereby lessen the need that they be segregated.

7. Notwithstanding this progress, some provisions of the action plan have not been implemented or have been only partially implemented. The Joint Monitors have recommended to the parties and informed the Magistrate Judge that sufficient time has not yet elapsed for them to make an assessment of the effectiveness of all of the provisions of the action plan in improving the treatment of prisoners with mental illness.

8. Most significantly, full compliance with the action plan may require an increase in the number of mental health treatment personnel. The Defendant is making efforts to secure additional staff in addition to other program and organizational changes. However, the Defendants efforts may be impacted by the State's fiscal difficulties.

9. The Joint Monitors and the parties are in agreement that this matter should be stayed an additional year in order to allow the Defendant to fully implement the terms of the action plan.

10. During the time this matter is stayed, the Joint Monitors, as set forth in the action plan, will continue in their role of touring facilities, meeting with staff of MDOC and reporting to the parties on the progress of Defendant in meeting its goals under the action plan.

11. At any time during the stay, the Plaintiff may move for a finding that the Defendants are in substantial non-compliance with the action plan or the Defendants may move that the mental health issues in Plaintiff's Amended Complaint have been substantially resolved. The parties or either of them may refer to or otherwise incorporate their most recent Joint Monitors' report, in support of or in opposition to a motion for a finding of substantial compliance or non-compliance. In the event the Court finds the Defendant to be in substantial non-compliance with the action plan, the stay shall be lifted and litigation may recommence pursuant to any orders of the Court. If the Court finds substantial compliance, the case shall be dismissed.

12. Absent a pre-stay expiration finding of non-compliance, the parties agree that the case shall be dismissed without prejudice at the expiration of the stay, except as set forth in the following paragraph.

13. The Plaintiff may present a request for reasonable attorneys' fees to the Defendant no later than 45 days prior to expiration of the stay. The parties agree to negotiate the request in good faith. If the parties cannot agree on an award of attorneys' fees, they shall so inform the Court before the expiration of the stay, in which event the Court shall retain jurisdiction of the case for the sole purpose of considering the Plaintiff's motion for fees. The Plaintiff shall file its motion for attorneys' fees, if any, no later than 30 days after the expiration of the stay. If the case is resolved upon a Defendant's motion pursuant to paragraph 11 of the stipulation, the Court shall retain jurisdiction under such terms as the Court may order, for resolution of Plaintiff's request for attorneys' fees.

WHEREFORE, Plaintiff and Defendant pray this Court to extend the Stay previously issued in this matter for another year, pursuant to the provisions set forth above.

Dated: 12/09/09

Subm

itted by,

s/ Mark A. Cody
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