

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Civil No. 18-cv-80810–Matthewman

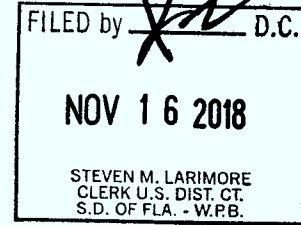
H.C., a minor, by and through his parent and natural guardian, Jenny C.; and M.F., a minor, by and through his parent and natural guardian, Asisa Rolle, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

RIC BRADSHAW, Palm Beach County Sheriff, in his individual and official capacity; and SCHOOL BOARD OF PALM BEACH COUNTY,

Defendants.



**ORDER GRANTING JOINT MOTION TO CONDITIONALLY CERTIFY CLASS,
PRELIMINARILY APPROVE CLASS SETTLEMENT, APPOINT CLASS COUNSEL,
AND SET FAIRNESS HEARING [DE 78]**

The Court, having considered the parties' Joint Motion to Conditionally Certify Class, Appoint Class Counsel, Preliminarily Approve Settlement, and set a Fairness Hearing filed on November 15, 2018 ("Motion") [DE 78], hereby:

FINDS AND ORDERS:

1. This Order incorporates by reference the Settlement Agreement filed as **Exhibit A** [DE 78-1] to the Motion. The definitions in the Settlement Agreement and all terms and conditions stated therein shall be incorporated in this Order by reference and shall have the same force and effect.

2. The Court finds for purposes of settlement only that the prerequisites for a class action under Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure have been satisfied in that: (a) the Class is so numerous that joinder of all members is impracticable; (b) there are questions of law or fact common to the Class; (c) the Plaintiffs' claims are typical of those of the Class; and (d) the Plaintiffs will fairly and adequately protect the interests of the Class.
3. Accordingly, pursuant to Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure, the following Settlement Class and Settlement Sub-Classes (collectively the "Class") are certified:
 - a. Settlement Class:
 - i. All present and future juveniles (*i.e.* individuals under the age of 18 and charged as adults) who are now or will be incarcerated in segregated housing while in the custody of the Palm Beach County Sheriff's Office ("Sheriff's Office").
 - b. Settlement Sub-Classes:
 - i. All present and future juveniles (*i.e.* individuals under the age of 18 and charged as adults) with disabilities, as defined by the Individuals with Disabilities Education Act, who are now or will be incarcerated in segregated housing while in the custody of the Sheriff's Office and are in need of special education evaluations, instruction, accommodations, and related services ("IDEA subclass"); and
 - ii. All present and future juveniles (*i.e.* individuals under the age of 18 and charged as adults) with disabilities, as defined by the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973, who are now or will be incarcerated in segregated housing while in the custody of the Sheriff's Office ("ADA and 504 Subclass").
4. The Court finds that the Law Firm of Cohen Milstein Sellers & Toll, PLLC, the Human Rights Defense Center, and the Legal Aid Society of Palm Beach County, Inc., have extensive experience in prosecuting class action cases, and appoints the following

attorneys as Class Counsel pursuant to Rule 23(g) of the Federal Rules of Civil Procedure:

Theodore Jon Leopold, Esq.
Diana Leigh Martin, Esq.
Cohen Milstein Sellers & Toll, PLLC
2925 PGA Boulevard
Suite 200
Palm Beach Gardens, FL 33410
561-515-1400
Fax: 561-515-1401
Email: tleopold@cohenmilstein.com
Email: dmartin@cohenmilstein.com

Sabarish P Neelakanta, Esq.
Masimba Mutamba, Esq.
Human Rights Defense Center
P.O. Box 1151
Lake Worth, FL 33460
561-360-2523
Fax: 866-735-7136
Email: sneelakanta@hrdc-law.org
Email: mmutamba@hrdc-law.org

Melissa Marie Duncan
Legal Aid Society of Palm Beach County
423 Fern Street
Suite 200
West Palm Beach, FL 33401
561-655-8944
Fax: 655-5269
Email: mduncan@legalaidpbc.org

5. The Court grants preliminary approval of the Settlement Agreement as being fair, reasonable and adequate to the Class, subject to further consideration and final approval at the Fairness Hearing.
6. Because this proposed Class Settlement is certified under Rule 23(b)(2), the Class members cannot “opt out” of the Settlement, nor are the parties required to provide notice to the Class. Notice of the Settlement Agreement as required by the Class Action

Fairness Act, 28 U.S.C. §1715(b), to the U.S. Attorney General, the Florida Attorney General's Office, and/or any other necessary parties shall be made as required by law.

7. A Fairness Hearing will be held on **Tuesday, March 5, 2019, at 2:00 p.m.** in the West Palm Beach Division before United States Magistrate Judge William Matthewman at the U.S. District Courthouse located at 701 Clematis Street, West Palm Beach, Florida 33401 in courtroom six on the third floor. At the hearing, the Court will consider: (a) objections and comments on the proposed Settlement Agreement; (b) whether the Settlement Agreement should be finally approved as fair, reasonable, and adequate; and (c) whether it shall be entered as the Final Judgment in this action. Pursuant to CAFA, 28 U.S.C. §1715(d), final approval of the Settlement Agreement shall not be issued earlier than 90 days after notice of the Settlement Agreement is made pursuant to CAFA, 28 U.S.C. §1715(b).
8. The Court retains jurisdiction to consider all further applications arising out of or in connection with the Settlement Agreement.

DONE AND ORDERED in Chambers at West Palm Beach, Palm Beach County, in the Southern District of Florida, this 16th day of November, 2018.


WILLIAM MATTHEWMAN
UNITED STATES MAGISTRATE JUDGE