

**TED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA**

DWIGHT WILLIAMS et al.,	:	
	:	CIVIL ACTION
Plaintiffs,	:	
	:	No. 08-cv-1979
v.	:	
	:	CLASS ACTION
CITY OF PHILADELPHIA et al.,	:	
	:	
Defendants.	:	
	:	

ORDER

AND NOW, this 16th day of March, 2016, it appearing that by Order dated October 8, 2010, this matter was certified as a Class Action pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(2), and it appearing that the parties have entered into a Settlement Agreement, and it further appearing that pursuant to Federal Rule of Civil Procedure 23(e) this Court is required to give notice to the members of the class of this proposed settlement and to approve the settlement after hearing, it is **ORDERED** as follows:

1. The Settlement Agreement which is attached hereto is preliminarily APPROVED.
2. A Hearing on the Fairness of the Settlement Agreement is scheduled for May 5, 2016, at 3:00 p.m., Courtroom 8A, United States Courthouse, 601 Market Street, Philadelphia, Pennsylvania.
3. On or before March 20, 2016, City Defendants shall post the Notice of Class Action Settlement (Exhibit B) in every housing unit and in every law library in the Philadelphia Prison System.
4. Objections to or comments regarding the Settlement Agreement will be Considered by the Court at the Fairness Hearing, if submitted

to Counsel in writing on or before April 20, 2016. The objections or comments should be sent to Class Counsel and Counsel for Defendants as follows:

Class Counsel

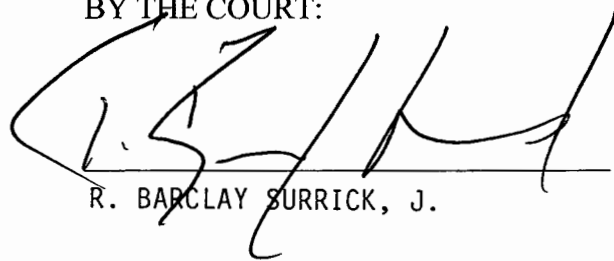
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718 Arch Street, Suite 501S
Philadelphia, PA 19106

Counsel for Defendants

Craig M. Straw, Chief Deputy City
Solicitor
Law Department
1515 Arch Street
Philadelphia, PA 19102

IT IS SO ORDERED.

BY THE COURT:



R. BARCLAY SURRECK, J.

Filed 3/16/16
S. Feinberg
D. Rudovsky
C. Straw
S. Galante
B. Hughes

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

DWIGHT WILLIAMS et al.,	:	
	:	CIVIL ACTION
Plaintiffs,	:	
	:	No. 08-cv-1979
v.	:	
	:	CLASS ACTION
CITY OF PHILADELPHIA et al.,	:	
	:	
Defendants.	:	
	:	

SETTLEMENT AGREEMENT

I. Introduction

At the time that the captioned lawsuit was filed, there were more than 9300 inmates in the PPS, and of these over 2500 were triple celled at Curran-Fromhold Correctional Facility (“CFCF”), House of Corrections (“HOC”), and Riverside Correctional Facility (“RCF”). In addition, it was alleged that there was serious overcrowding in the dormitory areas of the Detention Center (“DC”) and that inmates subjected to triple celling did not receive essential services and programs due to the overcrowded conditions and the wide use of lockdowns and restricted movements. The defendants have denied that the alleged conditions exist at PPS. Further, the defendants deny that the any of the alleged conditions violate the constitutional rights of the inmates.

Following denial of motions to dismiss the Complaint, this Court certified the matter as a class action with the following definition of the class and claims:

All persons who are or will in the future be confined in the Philadelphia Prison System, and who are or will in the future be subjected to the conditions of confinement, including triple celling, or placement in dormitories, without minimally adequate security, services or programs as set forth in plaintiffs’ Complaint.

In 2011, the population had been reduced to approximately 7,600 with an “in-house” population of approximately 7,200. Triple celling number had been reduced to approximately 1,300 inmates. There has been no triple celling at RCF since April, 2009. Lockdowns and restricted movement had been reduced, thereby providing inmates with greater access to programs and services within PPS. Under these circumstances, the parties entered into a Settlement Agreement under which the Complaint was dismissed without prejudice to refile if the population and triple celling substantially increased. Soon thereafter, however, there was a substantial increase in the population (to approximately 9000 inmates) and the Court granted plaintiffs’ motion to reinstate the claims in the Complaint. Since the reinstatement of the Complaint, the parties have engaged in extensive discovery, expert tours and trial preparation.

In the past eight months, there has been another significant reduction in the population and triple celling at PPS. As of January 12, 2016 the population was 7550; the in-house population was 7128; and there were 1380 inmates triple celled at CFCF and HOC. No women have been triple celled at Riverview for the past months. These reductions have resulted from fewer admissions to PPS, expansion of the “Video Crash Court” program which accelerates the disposition of minor cases (and related probation and parole detainers), consolidation of probation and parole hearings to expedite resolution of detainers, special release hearings at which bail orders are reviewed and reduced, a number of “diversion” programs whereby persons charged or subject to charges for minor crimes are either not arrested or, if arrested, are diverted into programs without prosecution, specialized courts (including Mental Health Court, Veteran’s Court, Dawn’s Court (prostitution cases), and Drug Court); video extradition hearings, and increased use of house arrest and GPS monitoring.

Of equal significance, two new major initiatives provide grounds for anticipating additional substantial reductions in the PPS population. First, the City of Philadelphia is among five cities that have qualified to submit a proposal to the MacArthur Foundation for funding for a project designed to reduce jail population by approximately 30% over a two to three year period. The City's proposal has been joined by the First Judicial District, the District Attorney of Philadelphia, and the Defender Association of Philadelphia and will include reforms to the bail system (with alternatives to cash bail), release on electronic monitoring of a larger number of pre-trial inmates, expansion of diversion programs, facilitation of early parole petitions, and expedited case management. A decision by the MacArthur Foundation on funding the City's grant proposal is expected in early 2016.

Second, Mayor James F. Kenney is supportive of the MacArthur initiatives and proposals. Implementation of the measures identified in the MacArthur grant proposal and embraced by the City Administration could result in significant further reductions in the population of PPS, corollary reductions in the incidence of triple-celling of inmates, and the possible de-commissioning of the House of Correction as a facility for housing inmates.

In light of these developments, current status of case, and ongoing reforms in the system, the parties have entered into this private Settlement Agreement.

II. Terms of the Settlement Agreement

A. Jurisdiction and Authority of the Court

This Court has jurisdiction of this matter pursuant to 42 U.S.C. §1983, 42 U.S.C. §1997e, *et seq.* (“PLRA”), and the Eighth and Fourteenth Amendments to the United States Constitution. Under 18 U.S.C. §3626(c)(2)(A), the parties may enter into a private settlement agreement. Upon the approval of this Settlement Agreement, the captioned matter will be dismissed without prejudice. Plaintiffs reserve the right to seek reinstatement of these proceedings on good cause shown during the pendency of the Settlement Agreement. Barring reinstatement, this case shall be dismissed with prejudice when this Settlement Agreement expires.

B. Programs, Policies and Procedures Designed to Reduce Population at PPS

1. The defendants will continue to make reasonable efforts to implement and operate the programs, policies and procedures listed in Section I, *supra*, that are designed to reduce the population at the PPS. The City is not responsible for the termination or changes in existing programs that are not within the control of the City.

2. The City will make reasonable efforts to implement a plan for a reduction of the PPS population, regardless of the outcome of the MacArthur grant process.

3. The defendants will continue to make reasonable efforts to minimize the use of lockdowns and restricted movement and to provide inmates with medical services, mental health services, dental services, social services, legal visits, and exercise, during restrictive movement or lockdown periods so long as the activity does not present a security risk to the inmate, other inmates or correctional staff.

4. The defendants will continue to make reasonable efforts to ensure that inmates in triple cells are provided with clean cells, adequate bedding, and access to adequate showers and toilets.

5. The defendants will continue to make reasonable efforts to identify inmates who are Seriously Mentally Ill (“SMI”). The defendants will make reasonable efforts to limit the use of triple celling for SMI inmates who exhibit behavior that poses a risk to themselves or others.

C. Monitoring Provisions

The defendants agree to provide the following information and data to plaintiffs’ counsel on a monthly basis for a period of 12 months from the date of the Court’s approval of this Settlement Agreement:

1. The PPS CORESTAR reports.
2. PPS population records.
3. Triple cell reports.
4. Pennsylvania Department of Correction inspection reports.
5. Mental health and medical consultant reports.
6. At a reasonable time prior to the expiration of the monitoring period set forth in Section II C, plaintiffs shall be allowed an inspection/tour of CFCF, HOC, DC and/or Riverside facilities if the population of PPS is then significantly higher than the population at the time of the Court approval of this Settlement Agreement.

D. No Admission of Liability

Nothing contained in this Settlement Agreement shall be construed as an admission of any party or the liability of the defendants.

E. Disposition of the Action

Within five days of the execution of this Agreement, the parties shall submit a joint motion to the Court to dismiss the case without prejudice with the express understanding that this case shall be dismissed with prejudice when this Settlement Agreement expires.

III. Fees and Costs

Plaintiffs agree not to file a Motion for any attorney's fees or costs incurred prior to Court approval of this Settlement Agreement. The City agrees to reimburse plaintiffs for fees and costs in an agreed upon amount.

IV. Benefit and Burden

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, representatives, successors and assigns.

V. Amendments

This Agreement may not be modified, amended, or terminated except by an instrument in writing, signed by all of the parties affected thereby.

VI. Severability

If for any reason any provision of this Agreement is determined to be invalid or unenforceable, the remaining provisions of this Agreement shall be construed, performed or enforced as if the invalidated or unenforceable provision had not been included in the text of the Agreement.

VII. Drafting

The drafting and negotiation of this Agreement have been participated in by each of the parties, and for all purposes, this Agreement shall therefore be deemed to have been drafted jointly by each of the parties.

VIII. Entire Agreement

All Agreements, covenants, representatives and warranties, express or implied, oral or written, of the parties hereto concerning the subject matter hereof are contained herein. No other agreements, covenants or representations or warranties, express or implied, oral or written have been made by any party hereto to any other party concerning the subject matter hereof. All prior and contemporaneous conversations, negotiations, possible and alleged agreements, covenants, representations or warranties concerning the subject matter hereof are merged herein. This is an integrated agreement.

IX. Expiration

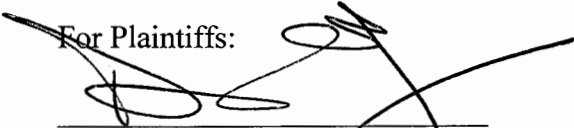
Subject to Plaintiffs' right to reinstate the action during the pendency of the Settlement Agreement, this Agreement and all provisions herein shall expire 12 months from the date of the Court's approval of this Settlement Agreement, and the case shall be dismissed with prejudice. In the event Plaintiffs are permitted to reinstate the action, this Settlement Agreement shall have no further force or effect.

X. Non-Waiver of Claims and Defenses

A. The plaintiffs and the defendants agree that by entering into this Agreement, the plaintiffs do not waive their rights to pursue individual claims under federal or state law.

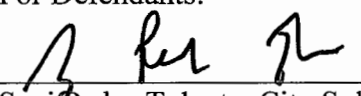
B. The plaintiffs and the defendants agree that by entering into this Agreement, defendants do not waive their right to raise any defense(s) in any case brought by the individually named plaintiffs for damages or for any further application by the class for prospective relief.

For Plaintiffs:

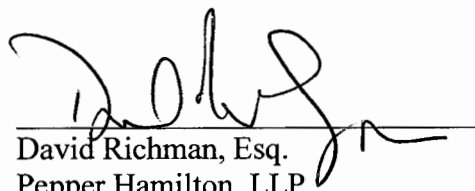


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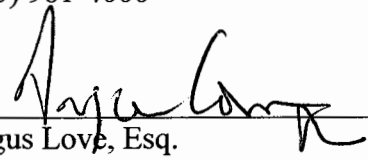
For Defendants:



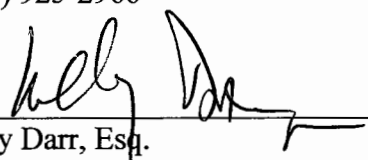
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Disability Rights Network of Pennsylvania
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Philadelphia, PA 19107
(215) 238-8070

EXHIBIT A

Williams, et al. v. City of Philadelphia, et al., Civil Action No. 08-cv-1979
United States District Court for the Eastern District of Pennsylvania
Pending before the Honorable R. Barclay Surrick

NOTICE OF CLASS ACTION SETTLEMENT

This notice sets for the basic terms of the settlement reached in the above-referenced class action regarding conditions of confinement at the Philadelphia Prison System (“PPS”) and advises class members of their procedural rights relating to the settlement.

Case Background

On April, 28, 2008, several PPS inmates residing in various PPS facilities filed this class action lawsuit against the City of Philadelphia and the Commissioner of the PPS (collectively, “Defendants”) alleging that as a result of overcrowding, conditions of confinement in the PPS violated inmates’ constitutional rights and entitled inmates to injunctive and declaratory relief. Prior to class certification, plaintiffs alleged that the Defendants used triple-celling at Curran-Fromhold Correctional Facility (“CFCF”), the House of Correction (“HOC”) and Riverside Correctional Facility (“RCF”). The Plaintiffs also alleged that Detention Center’s dormitories were overcrowded. The suit did not seek money damages.

On October 8, 2010, the Court certified the following class of plaintiffs:

All persons who are or will in the future be confined in the Philadelphia Prison System, and who are or will in the future be Subjected to the conditions of confinement, including triple celling, or placement in dormitories, without minimally adequate security, services or programs as set forth in plaintiffs’ Complaint.

At the time of class certification, triple-celling of inmates existed in the Curran-Fromhold Correctional Facility (“CFCF”). At the time of class certification, triple-celling of inmates did not

exist at HOC and RCF. At the time of class certification, Plaintiffs alleged that the Detention Center's dormitories were overcrowded.

This notice is not intended to be, and should not be construed as, an expression of any opinion by the Court with respect to the truth of the allegations in the litigation or the merits of the claims or defenses asserted. This notice is sent to advise you of the pendency of this action and proposed settlement and of your rights with respect to this action.

The Settlement Agreement

The Settlement Agreement, which is on file and available for inspection at all PPS law libraries, recognizes that Defendants, in concert with the Philadelphia Court of Common Pleas and other government agencies, have adopted a series of programs, policies, and procedures aimed at reducing the population in all PPS facilities. Those measures have had the effect of significantly reducing the overall population of the PPS; reducing the use of triple-celling; and reducing the number of inmates housed in the Detention Center.

Under the terms of the Settlement Agreement, Defendants have agreed to make reasonable efforts to implement and operate the various programs, policies, and procedures that have reduced but not eliminated the use of triple-celling and the alleged overcrowding at the Detention Center. The Settlement further provides that for a one-year period following Court approval of the Settlement Agreement, Defendants will provide attorneys who represent the Plaintiff class with data regarding PPS facilities and access to same so that they can continue to monitor the conditions of confinement with the PPS.

During the one-year monitoring period, Plaintiffs will have the right to reinstate their claims for injunctive and declaratory relief. Barring reinstatement, this case will be dismissed with prejudice upon conclusion of the one-year monitoring period.

Statement of Poetntial Outcome of Case

Class Counsel recognizes that there was a substantial risk if the case were to be tried, of an unfavorable outcome, providing less or no relief to the class. The proposed Settlement Agreement provides substantial relief and avoids the risk, of an unfavorable outcome, providing less or no relief to the class.

The Defendants denied that the conditions of confinement at the PPS violated the inmates' constitutional rights. The Defendants denied that the inmates were entitled to injunctive and declaratory relief.

Notice of Fairness Hearing

As inmates, you are members of the Plaintiff class. The Court will consider any objections or comments you may have regarding the Settlement Agreement provided they are received before April 20, 2016. Your objections or comments should be sent to class counsel and to counsel for Defendants, as follows:

Class Counsel

David Rudovsky, Esq.
Kairys, Rudovsky, Messing & Feinberg, LLP
718 Arch Street, Suite 501S
Philadelphia, PA 19106

Counsel for Defendants

Craig M. Straw, Chief Deputy City
Solicitor
Law Department
1515 Arch Street
Philadelphia, PA 19102

A hearing will be held on at which the Court will consider the fairness of the Settlement Agreement and decide whether to approve it. Your objections will only be considered in writing.

MODE = MEMORY TRANSMISSION

START=MAR-16 15:42

END=MAR-16 15:50

FILE NO.=017

STN NO.	COMM.	ABBR NO.	STATION NAME/TEL NO.	PAGES	DURATION
001	OK	#	2159255365	015/015	00:02:00
002	OK	#	2156835397	015/015	00:02:20
003	OK	#	2156865725	015/015	00:01:53

-JUDGE R. BARCLAY SURRICK -

***** - *****

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF PENNSYLVANIA
8614 UNITED STATES COURTHOUSE
INDEPENDENCE MALL WEST
SIXTH AND MARKET STREETS
PHILADELPHIA, PENNSYLVANIA 19106-1741

Chambers of
R. BARCLAY SURRICK
United States District Judge

(267) 299-7630

March 16, 2016

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Re: Williams, et. al. v. City of Philadelphia, et. al., 08-cv-1979

Memo: Order of the Court to follow.

Via Fax: Fifteen (15) pages transmitted to include this cover page.