

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

FILED

JAN 28 2013

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY  DEPUTY CLERK

JULIA ANN JACKSON, ERICA
BERNAL AND MARTIN MARTINEZ,
INDIVIDUALLY AND ON BEHALF OF
A CLASS OF OTHERS SIMILARLY
SITUATED

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VS.

CIVIL ACTION SA-07-CV-928-FB

THE COUNTY OF BEXAR

AMENDED UNOPPOSED CONSENT DECREE AND FINAL JUDGMENT

On November 15, 2007, Plaintiffs filed their Class Action Complaint (hereafter “**Complaint**”) alleging the Bexar County Adult Detention Center had a practice and policy which violated 42 U.S.C. §1983 and their constitutional rights by strip searching all pre-trial detainees arrested on misdemeanor charges although there was no individualized suspicion of contraband. Defendant agreed to a Consent Decree granting Permanent Injunctive relief to Plaintiffs, dated April 2, 2009 (Docket 63) (“**Consent Decree**”).

In the Consent Decree, Plaintiffs and Defendant consented to the entry of a Final Judgment on the claim for permanent injunctive relief pleaded as the Third Cause of Action of the Complaint (hereafter “**Claim for Injunctive Relief**”), without demanding or requiring the adjudication of any issue of fact or law, pursuant to the terms of the Consent Decree.

On April 2, 2012, the United States Supreme Court in *Florence v. Board of Chosen Freeholders of County of Burlington*, 132 S. Ct. 1510 (2012) issued an opinion directly on point with the matters and claims in controversy in the instant case and found there was no Constitutional violation of the prisoner’s rights. Specifically, the Court in *Florence* held that

under the Fourth Amendment, jail administrators may require all arrestees committed to the general population of a jail to undergo no-touch visual strip searches, even if the arrest was for a minor offense and even in the absence of reasonable suspicion that an arrestee possesses a concealed weapon or other contraband. *Florence*, 132 S. Ct. at 1523.

Despite the entry of the Judgment and Consent Decree, the Court still retains jurisdiction over this matter as the Final Settlement provided for continuing jurisdiction until all settlement payments were distributed to potential Class members. The Final Settlement provided for a deposit to the Inmate Commissary Fund of all unclaimed funds and that all amounts paid into the settlement fund that were not needed based on the number of persons qualifying to participate would revert to Bexar County. All settlement proceeds have not been distributed.

On or about August 31, 2011, the Office of the Attorney General of Texas (“OAG”) filed its First Amended Notice of Child Support Liens and Claim for Relief. (Docket 179) In sum, the OAG claimed a lien (liens) over various settlement proceeds for the payment of class members’ unpaid child support obligations. These settlement proceeds have not all been distributed or paid, or were paid to the OAG for various costs, fines and fees.

Based upon this significant change in the law, it is hereby agreed upon by the Plaintiffs and Defendant, and ORDERED, ADJUDGED, AND DECREED by the Court, as follows:

1. The Court has jurisdiction over the subject matter of this case and the Defendant.
2. **This Amended Consent Decree is in full and final resolution of all of Plaintiffs’ claims brought in this case including, but not limited to their Claims for Injunctive Relief.**
3. The Court has determined, and the Parties agree that it is appropriate and the Court has the authority to modify the Judgment and Consent Decree pursuant to Rule 60(b) of the Federal Rules of Civil Procedure.

4. The above-named parties, without conceding any defects in their claims or defenses, have determined that resolution of Plaintiffs' Claims, including and not limited to Plaintiffs' Claim for Injunctive Relief, on the terms and conditions set forth in this Amended Consent Decree is in the best interests of all parties to this action and the members of the putative Class on whose behalf this case has been brought.

5. Certification of the Settlement Class, including all sub-classes certified in the Court's January 12, 2011 Order (Docket 128) is hereby **VACATED** and **REVOKED**.

6. **NOTHING IN THIS AMENDED CONSENT DECREE SHALL BE CONSTRUED AS OBLIGATING THE PLAINTIFFS, CLASS COUNSEL, SETTLEMENT CLASS REPRESENTATIVES THEIR ATTORNEYS OR REPRESENTATIVES TO RETURN, REIMBURSE, INDEMNIFY OR REFUND ANY SUMS PAID OR DISTRIBUTED TO ANY CLASS MEMBER OR ANY ATTORNEY OR LAW FIRM REPRESENTING ANY CLASS MEMBER PRIOR TO THE DATE OF THIS AMENDED CONSENT DECREE.** No further funds, distributions, or payments shall be paid or distributed to any person or firm, with the exception of the Claimants listed. Any sums held in trust by any person or firm shall be returned to Bexar County.

7. All liens filed by the OAG over any proceeds in this matter are **VACATED** and **RELEASED**.

8. The parties agree the Revised Bexar County Jail Strip Search Policy attached to the Consent Decree is no longer binding or mandatory upon Bexar County as provided below.

9. This Amended Consent Decree shall be final and binding upon its approval and entry in the docket.

10. Except for those rights and obligations created by this Amended Consent Decree, Plaintiffs release, settle with and forever discharge Defendant, and every employee and representative of Defendant, from and against any and all claims, demands, controversies, actions or causes of actions, which Plaintiffs brought in the instant cause.

11. It is expressly understood and agreed this Amended Consent Agreement settles and compromises all claims brought in the instant cause, which is hereby dismissed with prejudice to the refiling of the same.

12. It is expressly understood and agreed this Amended Consent Agreement is limited to all claims brought in the instant cause and does not foreclose on any person or Class member from bringing any cause of action or claim for damages resulting from any other actions by the Defendant: specifically, the claims and causes of action dismissed by this Amended Consent Decree are limited to those arising out of strip searches of Class Members, even if the Class Member was arrested for a minor offense and even in the absence of reasonable suspicion that the Class Member possessed contraband.

13. The Court has fully examined the terms of this Amended Consent Decree and finds they are in accordance with law, appropriate, fair, and just and proper, and in furtherance of the public interest.

14. Defendant, and its officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who received actual notice of the Judgment and Consent Decree by personal service or otherwise, are hereby released from the Judgment and Consent Decree, which are hereby **VACATED, NULL AND VOID**.

15. Bexar County is not obligated to continue to operate in compliance with the Bexar County Jail Strip Search Policy attached to the Consent Decree.

16. Bexar County may adopt or institute any policy or procedure for individual strip searches that complies with *Florence v. Board of Chosen Freeholders of County of Burlington*, 132 S. Ct. 1510 (2012).

IT IS SO ORDERED ON THE 28 DAY OF January, 2013.



FRED BIERY
CHIEF UNITED STATES DISTRICT JUDGE