

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

THE UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO.:
	)	3:03-cv-1354-HTW-JCS
THE STATE OF MISSISSIPPI, <i>et al.</i> ,	)	
	)	
Defendants.	)	
	)	
	)	
	)	

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**AMENDMENT TO CONSENT DECREE**

On May 31, 2005, this Court approved and entered as its Order a settlement agreement ("Agreement" or "Consent Decree") [Dkt. 119, 120] requiring the State of Mississippi, *et al.* ("Defendants" or the "State") to implement certain measures to address unconstitutional conditions at the Oakley Training School ("Oakley") and the Columbia Training School ("Columbia") (collectively "facilities"). Having considered the Parties Joint Motion to Amend Consent Decree, it is ORDERED that the Consent Decree is amended as follows:

**I. EXTENSION OF CONSENT DECREE**

The termination date of "four years from the date it is ordered by the Court," i.e., May 31, 2009, in Paragraph 59 of the Consent Decree is changed to May 31, 2010.

**II. MONITOR FOR THE PROTECTION FROM HARM SECTION OF THE CONSENT DECREE**

Pursuant to paragraph 42 of the consent decree, Leonard Dixon is appointed as the Court Monitor for the Agreement as it pertains to the protection from harm provisions. Specifically, Mr. Dixon will monitor the protection from harm section requirements of the Consent Decree, ¶¶ 1-19, 37, 39, 40. The cost for the Monitor's fees and expenses shall be borne by the State.

**III. MONITOR FOR THE SUICIDE PREVENTION SECTION OF THE CONSENT DECREE**

Pursuant to paragraph 42 of the consent decree, Lindsay Hayes is appointed as the Court Monitor for the Agreement as it pertains to the suicide prevention provisions. Specifically, Mr. Hayes will monitor the suicide prevention section requirements of the Consent Decree, ¶¶ 20-28, 37, 39, 40. The cost for the Monitor's fees and expenses shall be borne by the State.

**IV. MONITORS' ACTION PLANS**

Within 30 days of the Court's approval of appointment of Mr. Dixon and Mr. Hayes as the Monitors for the protection from harm and suicide prevention provisions of the Consent Decree, Mr. Dixon and Mr. Hayes shall complete tours of Oakley and Columbia Training Schools. The Monitors shall have full and complete access to the facilities, all facility and Division records,

staff and residents. The Monitors shall be permitted to initiate and receive *ex parte* communications with all Parties.

Within 15 days of the conclusion of the Monitors' tours at Oakley and Columbia, but no later than 45 days after the Court's approval of the appointment of Mr. Dixon and Mr. Hayes, each Monitor shall submit to the Parties a detailed action plan in his respective area of coverage.

Each action plan shall, with reference to the pertinent paragraphs of the Agreement: (a) identify any current deficiencies in the State's compliance with the requirements of each paragraph; (b) outline specific, detailed actions that will be undertaken by the State to correct any existing deficiencies; (c) specify the name and title of the person responsible for coordinating each action and complying with the due date; and (d) specify the due date at which each specified action must be completed.

The Parties shall make any comments within 10 days of submission of each action plan by the Monitors. The Monitors shall revise the action plans based on the comments of the Parties.

No later than 60 days from the date of the Court's appointment of Mr. Dixon and Mr. Hayes, the Parties shall jointly request that the Court enter an order for each action plan as a modification to the Consent Decree. If the Parties cannot reach

agreement on an action plan, each party shall submit a proposed order and the Court shall determine which action plan shall be entered as an order of the Court.

The Monitors may submit to the Parties proposed amendments to the action plans in the event of unforeseen or changed circumstances necessitating such amendments. If in agreement, the Parties shall jointly request that the Court enter an order for an amendment to an action plan proposed by the monitor. If the Parties cannot reach agreement on an amendment, including whether the proposed amendment is necessary due to unforeseen or changed circumstances, each party shall submit a proposed order and the Court shall determine which action plan shall be entered as an order of the Court.

**V. GOOD-FAITH DISCUSSION REQUIREMENT**

Paragraph 57 of the Consent Decree is replaced with:

(57) Enforcement If DOJ believes that the State has failed to substantially comply with any obligation under this Agreement, DOJ will, prior to seeking judicial action to enforce the terms of this Agreement, give written notice of the failure to the State. The parties shall conduct good-faith discussions to resolve the dispute. If the parties are unable to reach agreement within 15 days of the DOJ's written notice, DOJ may seek judicial action. DOJ commits to work in good faith with the State to avoid enforcement actions. In case of an emergency posing an immediate threat to the health or safety of youths, however, the United States may omit the notice and cure requirements herein, before seeking judicial action.

**VI. THE PRISON LITIGATION REFORM ACT**

The United States and Defendants stipulate that this Amendment complies in all respects with the provisions of the Prison Litigation Reform Act, 18 U.S.C. § 3626(a). Pursuant to the stipulation and the facts set forth in the Parties' Joint Motion to Amend Consent Decree, the Court finds that Defendants have violated the federal rights of youth. Further, the Court finds that the prospective relief in this Amendment to the Consent Decree is narrowly drawn, extends no further than necessary to correct the violations of federal rights set forth in the Complaint, is the least intrusive means necessary to correct these violations, and will not have an adverse impact on public safety or the operation of a criminal justice system. Accordingly, this Amendment complies in all respects with the provisions of 18 U.S.C. § 3626(a).

All provisions of the Consent Decree that do not conflict with this Amendment shall remain in full force and effect.

SO ORDERED this 26th day of February, 2008.

s/ HENRY T. WINGATE  
CHIEF UNITED STATES DISTRICT COURT JUDGE  
SOUTHERN DISTRICT OF MISSISSIPPI

Civil Action No. 3:03-cv-1354 HTW-JCS  
Amended Consent Decree