

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED ✓

AUG 23 1997

Clerk, U.S. District Court
District of Columbia

KEVIN GARNES, et al.
Plaintiffs,
v.
DISTRICT OF COLUMBIA,
Defendant.

Civil Action No. 97-240 (PLF)

STIPULATION OF SETTLEMENT AND ORDER

Counsel for the parties having reached an agreement resolving this action, hereby request that this settlement be approved in accordance with Fed.R.Civ.P. 23(e). As more fully described below, the settlement fairly resolves the claims raised by the plaintiffs in the Complaint.

I. Background

This case was filed on February 4, 1997 by four mobility impaired prisoners confined to the Correctional Treatment Facility ("C.T.F.") on behalf of themselves and the class that they represent. The plaintiffs claim in the complaint, inter alia, that mobility impaired prisoners are subjected to discrimination, based solely on their handicap, in access to educational, vocational, religious, drug treatment and recreational programs.

Shortly after the initiation of this lawsuit, counsel for the parties entered into a series of negotiations designed to identify the remedial actions that could be taken by the defendant to resolve the plaintiffs' claims. Defendant's

(M)

22

contractor, Corrections Corporation of America ("C.C.A.") was actively involved in these discussions. The parties toured the C.T.F. with their respective consultants and identified various options to address the plaintiffs' allegations.

Following the consultants' site visit, the defendant and C.C.A. developed a series of plans to modify the C.T.F. and instituted a number of changes in policy. The plans were reviewed by the plaintiffs and their expert and any differences were resolved. The majority of the work required under these plans has now been completed, and the remaining work is expected to be completed within the next several months.

The defendant has taken a number of actions to make the C.T.F. more accessible to the plaintiffs, including:

- renovations in two male drug treatment units and one female drug treatment unit in order to create two cells in each unit which are handicapped accessible;
- renovation of a cell in a women's general population housing unit to make it handicapped accessible;
- renovation of a bathroom in the religious services area to make it handicapped accessible;
- construction of a ramp so that prisoners in wheelchairs can access outdoor recreation;
- relocation of computer training classes to a room that is handicapped accessible;
- relocation of education classes to rooms that are handicapped accessible;
- repair or replacement of a number of wheelchairs and the institution of a wheelchair maintenance program;

- modification of practices and/or policies to permit medically cleared mobility impaired prisoners to hold prison jobs;
- modification of practices and/or policies to permit medically cleared mobility impaired prisoners on the infirmary unit to participate in religious services, outdoor recreation and the law library; and
- purchase of a van appropriately equipped to transport wheelchair bound prisoners to court and medical appointments.

II. Terms of Settlement

The parties agree to the following terms of settlement:

A. Upon approval of this settlement pursuant to Fed.R.Civ.P. 23(e), the proceedings in this action shall be stayed for a six month period. During this period, the defendants shall complete all uncompleted, but agreed to, modifications and make reports to the plaintiffs in accordance with the terms of this settlement as set forth below.

B. The stay may be lifted at the end of this six month period upon showing by either party that there has been a material breach of this settlement. The parties agree that the litigation shall then proceed only as to those issues which remain in dispute. The stay may be lifted prior to the end of the six month period upon a showing that circumstances present a threat to the health or safety of the plaintiffs. If the stay is lifted, this litigation will be restored to its procedural status prior to settlement.

C. At the expiration of the six month monitoring period, unless the Court has lifted the stay in accordance with paragraph II.B. above, the action shall be dismissed.

D. The parties agree the defendant will:

1. Admit qualified handicapped inmates to the drug treatment program, and allow them full participation in the program;

2. Allow all qualified handicapped inmates at the Correctional Treatment Facility, including medically cleared inmates on the infirmary unit, to participate in the educational and vocational programs offered at C.T.F., including access to a handicapped accessible bathroom, when necessary;

3. Allow all medically cleared handicapped inmates at the Correctional Treatment Facility, including those on the infirmary unit, access to indoor and outdoor recreation;

4. Allow all handicapped inmates at the Correctional Treatment Facility, including medically cleared inmates on the infirmary unit, access to religious programs, and access to the retrofitted bathroom located near the religious services, when needed;

5. Allow all qualified handicapped inmates at the Correctional Treatment Facility, including medically cleared inmates on the infirmary unit, access to the law library;

6. Allow all qualified handicapped inmates at the Correctional Treatment Facility, including medically cleared inmates on the infirmary unit, access to work details;

7. Provide ongoing routine wheelchair maintenance at the Correctional Treatment Facility, or new wheelchairs, when necessary.

E. In order to allow the plaintiffs to adequately monitor compliance during the six month period, the defendant shall:

1. Allow the plaintiffs to tour the Correctional Treatment Facility with their expert at the beginning of the six month period and at such other times as the plaintiffs request, upon reasonable notice to the defendant, and under such circumstances as do not pose a threat to security;

2. After the Court approves the settlement, provide the plaintiffs with a monthly report for six months which includes a list of each program offered at C.T.F., the name and DCDC number of each disabled inmate who participated in each program during that month, including, but not limited to, the drug treatment program, educational and vocational programs, and work details. The report shall also indicate how often members of the plaintiff class on each unit are allowed to participate in indoor and outdoor recreation, religious services, visitation, and the law library. The report shall indicate whether there are any barriers to the participation of disabled inmates in these programs, and the steps being taken to abate these barriers.

III. Approval of Agreement pursuant to Fed.R.Civ.P. 23(e)

A. The parties propose the following schedule for approval pursuant to Fed.R.Civ.P. 23(e):

1. within 14 days, the parties shall present a mutually agreeable class notice to the Court for approval;

2. within 7 days following Court approval of the notice, the defendant shall provide a copy of the notice to each mobility impaired prisoner within the Department of Corrections, and shall post the notice in the C.T.F. infirmary, C.T.F. law library and in the handicapped units at the C.T.F. and the Central Facility;

3. the notice shall provide that any class member may provide written comments to the Court within 14 days of having been served with the notice. These comments shall be sent to the Clerk of the Court and made available to the Court and counsel for the parties; and

4. a fairness hearing shall be scheduled at the Court's convenience.



Aurie T. Hall (#420157)
Jonathan M. Smith (#396598)
D.C. Prisoners' Legal Services
Project
1400 20th Street, N.W.
Suite 117
Washington, D.C. 20036
(202) 775-0323


For the plaintiffs



Jo Anne Robinson,
Interim Corporation Counsel
Michael E. Zielinski,
Deputy Corporation Counsel
William Earl,
Assistant Deputy Corporation
Counsel
Maria Amato, (#414935)
Assistant Corporation Counsel
Office of the Corporation
Counsel
441 Fourth Street, N.W.
Sixth Floor, South
Washington, D.C. 20001
(202) 727-6295

For the defendant

The foregoing settlement is, this 29th day of August,
1997, preliminarily approved. Proceedings pursuant to
Fed.R.Civ.P. 23(e) shall proceed in accordance with the schedule
proposed by the parties.


Paul L. Friedman
United States District Judge

Garnes v. D.C.



PC-DC-002-002