

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

NAZARETH GATES, ET AL.

PLAINTIFFS

VS.

NO. 4:71cv6-JAD

HALEY BARBOUR, ET AL.

DEFENDANTS

Lead Case

LOCAL JAILS AMENDED ORDER

This cause comes presently before the court on joint ore tenus motion of the parties to clarify, amend, and update the court's LOCAL JAILS ORDER OF 1997 with regard to payment of plaintiffs' attorney's fees and expenses for periodic inspection, fact finding, drafting proposed consent order approval, or not, and ongoing monitoring of order compliance of county and regional facilities housing state inmates.

It was then and is now intended that plaintiffs' attorney's fees and expenses be paid out of the State's payment of contract and/or statutory revenues to the Counties for housing state prisoners, currently about \$30 per state prisoner per day regional facility contract price, and \$20 per state prisoner per day State statutory price (plus medical expenses reimbursement) for county jails and work center housing. Plaintiffs' attorneys fees and expenses are also provided in consideration of the considerable value and budgetary savings to the Counties of the Public Service labor of working, class member state inmates housed locally.

Amendment of these attorney's fees provisions to require uniform flat fee and expenses payment in advance of inspection is necessary both to conform the 1997 Order to actual, long standing practice; to prevent undue financial influence/manipulation, on the part of County Supervisors' Attorneys, County Supervisors, and County Sheriff (delaying or withholding financial payment to influence the inspection, fact finding, and approval or not decisions of plaintiffs' attorney); and, therefore, also to prevent a potential conflict of interest on the part of plaintiffs' counsel posed by allowing post-inspection, post-performance payment of his fees and expenses at the discretion of County authorities who may then withhold or delay payment in order to influence the inspection, fact finding, and consent approval proposal of plaintiff's attorney.

The parties agree and stipulate, and the Court specifically finds, that the motion is well taken and should be granted, and that the relief granted is narrowly drawn, extends no further than necessary, and is the least intrusive means necessary to correct violations of the Federal rights herein remedied.

IT IS THEREFORE ORDERED:

1. In light of the findings made above, Paragraph 4, pp. 5-7, LOCAL JAILS ORDER OF 1997, should be and the same is hereby amended retroactively as follows.

2. Notwithstanding anything to the contrary in Paragraph 4,

above, when any county chooses to seek a consent court order approving or periodically re-approving their Regional Facility, county jail or work program for the housing of state inmates, plaintiffs' attorney may submit to such county a flat fee and expenses invoice totaling no more than the maximum amount allowed in Paragraph 4, and may require payment in advance of, and as a condition of, jail inspection, and related subsequent services, including the drafting of any subsequent proposed consent order of approval and ongoing monitoring of compliance with said order.

SO ORDERED, this the 8th day of September, 2008.

/s/ JERRY A. DAVIS
UNITED STATES MAGISTRATE JUDGE

/s/ Jim Hood, Attorney General
Attorney for Defendants

/s/ Ronald Reid Welch
Attorney for Plaintiffs