

OFFICE OF THE CLERK
UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
1845 ASSEMBLY STREET
COLUMBIA 29202

POST OFFICE BOX 867

(803) 765-5816
(FTS) 677-5816

Gary Wayne Nelson, et al

Civil Action No. 82-876

-vs-

Columbia Division

William D. Leeke, et al

NOTICE OF FILING

Please take notice that I have this date filed the Order of the Honorable C. Weston Houck in the above captioned case. Certified copies of Order with attachment is enclosed.

Plyler v. Leeke



PC-SC-002-008

JOHN W. WILLIAMS, CLERK

By: Lori F. Goldie
LORI F. GOLDIE
Deputy Clerk

DATE: March 27, 1985

TO: W. Gaston Fairey, Esquire
FAIREY & PARISE, P.A.
Post Office Box 8443
Columbia, SC 29202

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Senior Assistant Attorney General
State of South Carolina
Post Office Box 11549
Columbia, SC 29211

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

COLUMBIA DIVISION

Gary Wayne Nelson, et al.,) Civil Action No. 82-876-2
))
 Plaintiffs,))
))
 vs.) ORDER
))
William D. Leeke,))
Commissioner, South Carolina))
Department of Corrections, and))
Members of the South Carolina))
Board of Corrections,))
))
 Defendants.))

FILED
MAR 27 1985
JOHN W. WILLIAMS, CLERK
COLUMBIA, S. C.

MICROFILMED

Following a status hearing held in this case before the Honorable Charles Gambrell, United States Magistrate, on March 6, 1985, the Magistrate recommended that the attached Consent Decree presented to the Court in 1985 by the attorneys for the parties and not hitherto acted on by the Court, should be reviewed by the Court at this time pursuant to Rule 23(e) of the Federal Rules of Civil Procedure. The Court concurs in this recommendation.

Rule 23(e) requires this Court to prescribe the proper manner for giving notice of the proposed settlement to the members of the class, and to review the Compromise Agreement to determine whether it constitutes a fair, reasonable, and adequate settlement of this action.

THEREFORE IT IS ORDERED:

#1
CWA.

1. That notice be given to the members of the class in the form attached hereto as Appendix B in the following manner:

(a) That it, along with an agreed upon summary of the Consent Order (Appendix A) shall be prominently posted in all institutions of the South Carolina Department of Corrections where they should be prominently posted in all living areas;

(b) That the Notice (Appendix B) shall be published in The State Newspaper at least once each week for four (4) consecutive weeks, commencing on or about March ~~15~~³⁰, 1985. *AWH*

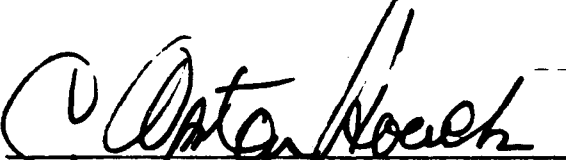
2. That by agreement the Defendants pay the cost of giving notice to the members of the class in the manner prescribed above.

3. That a hearing shall be held before this Court after the Court has had an opportunity to review all comments submitted in response to the Notice (Appendix B), and all counsel of record will be given notice of the time and place for the hearing, during or following which the Court will decide whether to take later testimony from any party, or other person, who has submitted comments about the

#2
AWH

proposed settlement of this action, to enable the Court to finally determine whether the Consent Order (Appendix A) provides a fair, reasonable, and adequate settlement of this action.

This the 26 day of March, 1985, in ~~Columbia~~ Florence, South Carolina.


C. WESTON HOUCK
United States District Judge

#3
CWH

A TRUE COPY
Attest: John W. Williams, Clerk
By: Louise Goldie
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

COLUMBIA DIVISION

Gary Wayne Nelson, et al.,) Civil Action No. 82-876-2
))
) Plaintiffs,)
))
) vs.) NOTICE OF COMPROMISE ---
))) AGREEMENT
William D. Leeke,)
Commissioner, South Carolina)
Department of Corrections, and)
Members of the South Carolina)
Board of Corrections,)
))
) Defendants.)
))

NOTICE AND STATEMENT OF PROPOSED SETTLEMENT OF CLASS SUIT

TO: ALL PERSONS IMPRISONED IN THE SOUTH CAROLINA
 DEPARTMENT OF CORRECTIONS.

IN RE: CONDITIONS OF IMPRISONMENT WITHIN ALL INSTITUTIONS
 OPERATED BY THE SOUTH CAROLINA DEPARTMENT OF
 CORRECTIONS.

PLEASE TAKE NOTICE OF THE FOLLOWING:

By an Order of United States District Judge C.
Weston Houck in an action entitled Gary Wayne Nelson, et
al. vs. William D. Leeke, et al., Civil Action Number
82-876-2, in the United States District Court for the
District of South Carolina, the Court has directed that
notice of the plan for settlement of this action be given to
those who may be members of the class by the attorneys for
the parties.

This Notice relates to a civil action involving conditions within all institutions operated by the South Carolina Department of Corrections.

The proposed Consent Decree in this action signed by all parties on January 8, 1985, involves conditions of incarceration for all inmates under the authority of the South Carolina Department of Corrections. The areas covered by such Decree include:

1. Cell Housing - Providing that there be certain minimum space requirements to be provided to each inmate depending upon the manner of housing of such inmate, and setting forth a five (5) year timetable to enable the Department to institute the housing provisions. Additionally, certain maximum capacity figures are agreed upon for each institution at the end of the five (5) year period.

(2) Staffing - The Decree provides for the implementation of recommendations for an increase in the number of staff persons to ensure the inmates' reasonable safety and security. Additionally, there are provisions which set up certain

minimum standards of training for staff members and limit the use of inmates in authority positions.

(3) Health Services - The Decree provides for the upgrading of medical services to all inmates pursuant to several studies agreed upon by the parties. Adequate medical staff or immediate availability of outside medical personnel is to be provided for each institution for emergency medical problems, and one (1) staff person on each shift at each institution will be trained in first aid and CPR techniques.

(4) Programs - The Decree provides for a variety of educational, work and vocational programs to be maintained by the Department of Corrections with the goal of providing all inmates the opportunity to work or further their education or vocational training. Inmates are also to be given access to prison libraries on a comparable basis.

(5) Fire Safety - The Decree provides for the Department to initiate a

program of upgradable fire safety and protection of inmates to be in compliance with applicable fire safety codes. This provision also contains a timetable to allow the Department to reach compliance.

(6) Discipline - The Decree provides for some changes in the maximum length and rational use of disciplinary lock-up.

(7) Classification - The Decree provides for the development of a system-wide classification plan with a primary goal of separating violent from non-violent inmates.

(8) Women's Institutions - The Decree provides that women inmates shall be provided equal or comparable conditions and privileges as men inmates.

(9) Visitation - The Decree provides for equal opportunity and conditions for all inmates to visitation with certain exceptions for those inmates designated "substantial security risks."

(10) Physical Restraints - The Decree provides for use of physical

restraints outside of secured institutions. Physical restraints are to be used within secured institutions only for "substantial security risk" inmates.

(11) Food Service - The Decree provides for all food services within the Department to meet South Carolina Department of Health and Environmental Control Standards and certain agreed upon standards maintained by the American Correctional Association.

(12) Environmental Sanitation - The Decree provides for institutions to be maintained in compliance with applicable State standards including those set forth by South Carolina Department of Health and Environmental Control and certain agreed upon standards of the American Correctional Association.

(13) Closing of Institutions - The Decree provides for the closing of the annex of the Midlands Reception and Evaluation Center within one (1) year of the signing of the Decree (January 8, 1986); and the closing of the Midlands

Reception and Evaluation Center within three (3) years of the signing of the Decree and the end of the use of the Maximum Security Center by January 8, 1986. The Department also agreed to make all good faith efforts to close the Central Correctional Institution until such institution is closed.

(14) Compliance - The Decree provides for quarterly reports from the Department as to compliance with the provisions of the Decree. Additionally, any substantial disputes concerning enforcement of the Decree may be referred to a mutually agreed upon mediator for resolution.

Intensive negotiations for settlement were engaged in among the attorneys for the parties, and these negotiations resulted in a proposed Consent Decree. A copy of the Proposed Consent Decree can be obtained for the cost of copying and mailing same by writing to the undersigned at the address stated below. Any person confined in any institution of the South Carolina Department of Corrections will have access to a copy of the Agreement where he is confined, pursuant to the Agreement between the parties.

In certifying the class in this case this Court has not made any determination as to the merits of the case.

Any member of the class may submit written comments or objections to the proposed settlement of this action. All objections heretofore received have been filed, and will be considered by the Court. All further comments or objections must be supported by specific facts and specify specific sections of the Consent Agreement; for the Court cannot evaluate, and will not consider, general or unsupported objections, or wholly conclusory statements objecting to the entirety of the proposed settlement. The comments or objections should be mailed to John W. Williams, Clerk, United States District Court, Post Office Box 867, Columbia, South Carolina 29202. The Court, in its discretion, may later receive testimony from representative members of the class (or others) who submit written comments or objections which are legible and specific enough to be meaningful to the Court. All comments and objections will be available for review in the Clerk's Office by all counsel who have appeared in this action.

The named Plaintiffs are represented by W. Gaston Fairey, FAIREY & PARISE, P. A., Post Office Box 8443, Columbia, South Carolina 29202; Christine A. Freeman, Southern Prisoner's Defense Committee, 600 Healey Building, 57 Forsyth Street, N.W., Atlanta, Georgia 30303; and Steven

Ney, Chief Staff Counsel, National Prison Project, 1346 Connecticut Avenue, N.W., Suite 1031, Washington, DC 20036. The Defendants are represented by Larry C. Batson, Legal Advisor, Department of Corrections, Post Office Box 21787, Columbia, South Carolina 29221-1787; and Kenneth P. Woodington, Senior Assistant Attorney General, State of South Carolina, Post Office Box 11549, Columbia, South Carolina 29211.

Any comments received by May ³⁰~~28~~, 1985, will be considered by the Court in determining the fairness, adequacy, and propriety of the proposed settlement. Comments received after that date will not be considered.

If the Court determines after reviewing the Consent Decree, together with all comments and objections submitted by class members, that the Decree constitutes an appropriate settlement of the claims set forth in the amended Complaint, it will approve the Consent Decree. All class members will be bound by this judgment and will not be permitted to bring another action for the same relief.

This the 27th day of March, 1985, in Columbia, South Carolina.

s/ JOHN W. WILLIAMS
JOHN W. WILLIAMS
Clerk of Court
United States District Court
Post Office Box 867
Columbia, South Carolina 29202