

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

GARY MINNIS, et al	:	
	:	
Plaintiffs,	:	
	:	
v.	:	Case 1:10cv96 (TSE/MSN)
	:	
GENE JOHNSON, et al.,	:	
	:	
Defendants.	:	

STATUS REPORT

COMES NOW, co-counsel for active Plaintiffs Larry More, Ronald Roman and Delonte Tinsley, Lana Manitta, Esq. (“Manitta”), who is joined in this report by Elliot Mincberg, Esq. and Deborah Golden, Esq. of the Washington Lawyer’s Committee for Civil Rights and Urban Affairs, (“Lawyer’s Committee”), and pursuant to this Court’s Order of February 22, 2016, (Doc. 136), hereby states that the following is a complete and accurate reporting of the progress made on Plaintiffs’ behalf with respect to conditions of confinement for deaf inmates in the custody of the Virginia Department of Corrections (“DOC”).

As the Court is aware, it was in or around October of 2014 when nearly all deaf inmates in DOC custody were moved from the adequately-equipped Powhatan Correctional Center to the Greensville Correctional Center, which was not at all equipped to accommodate their needs. Shortly thereafter, Plaintiff David Richardson filed a *pro se* Motion to Reinstate alleging significant deficiencies in DOC’s compliance with the settlement agreement entered into in this matter. Richardson also sought appointment of new counsel and Attorney Manitta entered an appearance as co-counsel to the Lawyer’s Committee. Attorney Manitta has since visited the Greensville facility on three separate occasions (and Powhatan on one occasion) to speak with

Plaintiffs, tour the facility, and speak with both facility and DOC personnel regarding the allegations of breaches of the settlement agreement. She, Attorney Mincberg, and Attorney Golden have worked most closely with Barry Marano, ADA Coordinator for the DOC, throughout this process.

A number of significant problems were noted by the Plaintiffs, and during counsel's first visit to Greenville in early 2015 she undertook to parse out which matters were covered by the settlement agreement and which were not, and which matters were related to the deaf inmates' disability and equal treatment, and which were not. Plaintiffs were concerned with a variety of issues that warranted discussion, but which were not part of the agreement *per se*. The issues of particular concern, however, were those involving the visual notification system and interpreter services – both live and via a Video Relay Interpreter (“VRI”) system. These have remained the key areas of focus, while a constant dialogue between counsel and Mr. Marano regarding these as well as “smaller” concerns (such as the quality of the captioning service on televisions) or concerns not unique to or discriminatory against deaf inmates (such as the availability of certain reading material in electronic format) is maintained. Counsel maintains contact with Plaintiffs primarily through email when visits to Greenville are not feasible.

PRIMARY ISSUES ADDRESSED

I. Visual Notification System

The visual notification system refers to the method of notifying deaf inmates, who all reside in the same housing unit, of scheduled, and more importantly *unscheduled*, events occurring in the unit or facility, such as lockdown, “chow”, “rec,” etc. This system is comprised of more than one mechanism, and has evolved over time, representing one of the more significant areas of progress made over this past year. Originally, the visual notification system

at Greenville involved the flashing of the lights when there was a notice of a particular event or occurrence, and a sign being put up in the window of the unit control room indicating the event. Ideally, then, staff were to walk around the unit and make sure individual inmates were aware of the notifications. Sometime in the Spring of 2015, a scrolling “ticker” was added to the unit, which showed the daily schedule scrolling by, repeated. A problem remained because the “tickers” were hard to see and were not updated in real time – meaning they were never changed, even if there was a change in the schedule or something like a lockdown or cell search was being announced. In those events, the flashing lights, signage in the control room and the use of inmate-employees to walk around the unit with signs, were utilized.

In the Fall of 2015, a system with the potential to be vastly superior was installed in the housing unit – two 50” flat screens. The messages on the large screens were changed as needed by the floor officer using a remote control. While this was an improvement over the systems previously in place, counsel noted in December, 2015 that there were still significant delays between the event being announced, the lights flashing to notify inmates to look at the screens, and the message being updated. Counsel suggested that this was due to the fact that up to three staff members were required to convey one message to the unit, and that perhaps the control room officer who flashes the unit lights could also be equipped with the remote control to change the message on the screen. It was suggested that the window sign – which is very difficult to see and unnecessary if the screens are up-to-date – be eliminated, and that the more automated and more visible system be implemented by the control room officer. Presently, these suggested changes – all but the elimination of the sign in the window – have been implemented.

In addition, at this time, vibrating and flashing alarm clocks are “on order.” These will be in the individual cells, providing a better alternative/backup to the flashing lights in the unit to warn of a scheduled or unscheduled event.

II. Video Relay Interpreter

When counsel first visited Greenville, there was one mobile VRI unit which was kept in a central location and could be purportedly be brought anywhere in the facility within ten minutes. This was problematic, and it was suggested that there be one *in the unit* housing deaf inmates as well as in the medical unit. Presently, there is a permanent “telemed” station in the medical unit which can be utilized as a VRI, and the aforementioned mobile unit is still utilized and kept in a central administrative office. On counsel’s latest visit in late December, 2015, it was noted that the mobile unit was not reliable. One must log in – which is not without connection problems -- move the unit via golf cart if necessary to the inmate’s location, and use the unit ideally near a window to avoid a lost connection. It was therefore suggested by Barry Marano during a conference with counsel that there be a tablet or cell phone with video capability kept in the housing unit for use as a VRI. Although this change has not yet been implemented, the facility is now testing the mobile unit more often than before, to ensure that there are not connection/login issues, and that it is in working order. Counsel continues to monitor this issue.

III. Videophone Limitations

Because of the location of the videophones that are used by deaf inmates as compared the standard phones utilized by hearing inmates (the latter of which can be *in* the housing unit), deaf inmates’ phone usage was more limited than that of hearing inmates. Counsel observed the phone location and discussed the schedule, and suggested the addition of five additional time

slots that will not interfere with security concerns and will allow for more access to phones for deaf inmates.

IV. Interpreters for Outside Medical Visits

It has been noted that on occasion, interpreters were not available for outside medical visits, but counsel has determined that the facility and DOC personnel are fulfilling their obligations to notify the outside treatment facility of the need for an interpreter, and that it is the outside facility that is failing to provide one on some occasions. It is counsel's intention to notify individuals at the specific medical facility of their own obligations under the ADA.

V. Bulletin Board

Deaf inmates rely on the bulletin board in the unit for other notifications – phone schedules, religious services, etc.-- and there was originally a complaint that inmates could remove notices from the unprotected bulletin board. In the past few months, a metal cage-like cover has been placed over the bulletin board to prevent that problem. However, on counsel's visit in December, 2015, it was noted that the metal grate made it hard to read the material on the board and that the metal itself had sharp edges that seemed dangerous to the touch. It was agreed the edges would be filed down and a larger font would be used on the printed material so that it would be easier to read through the metal.

CONCLUSION

All in all, progress continues to be made, though there is more to be accomplished by counsel, working with Mr. Marano and DOC and Greenville personnel, to ensure the implementation of practical and effective solutions to the remaining issues facing the Plaintiffs, and in fact all deaf inmates at Greenville. As recently as October, a detailed list of deficiencies was sent to the Office of the Attorney General, and as noted, a visit to the facility was made by

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that on the 14th day of March, 2016, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send an electronic notification of such filing (NEF) to the following:

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