

RECEIVED
2/14/07

DOC NO
REC'D/FILED

515 1/6

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

2007 FEB 14 PM 1:17

THERESA H. OWENS
CLERK US DIST COURT
WD OF WI

DENNIS JONES'EL, et al., on behalf of
themselves and all others similarly
situated,

Plaintiffs,

Case No. 00-C-421-C

v.

MATT FRANK, et al.

Defendants.

JOINT MOTION FOR APPROVAL OF
MODIFIED
SETTLEMENT AGREEMENT

Plaintiffs and defendants, through their attorneys, jointly ask this Court pursuant to Fed. R. Civ. P. 23(e) to provisionally approve the proposed resolution of this class action embodied in the Modified Settlement Agreement attached hereto as Exhibit 1 ("the Modified Settlement Agreement"). The parties ask that the Court: (1) make a preliminary determination that the resolution embodied in the Modified Settlement Agreement is fair, adequate, and reasonable; (2) approve the proposed Notice to the Plaintiff Class attached hereto as Exhibit 2; (3) enter the Order Directing Notice to Plaintiff Class and Scheduling Fairness Hearing, attached hereto as Exhibit 3; and (4) if the Court determines, after a hearing, that the Modified Settlement Agreement is fair, adequate, and reasonable, enter the Order Approving the Modified Settlement Agreement attached hereto as Exhibit 4.

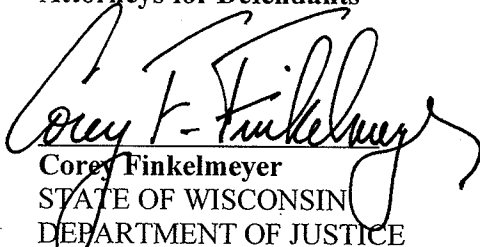
Copy of this document has been
provided to: Counsel

this 15th day of Feb 2007
by S. Vogel

S. Vogel, Secretary to
Judge Barbara B. Crabb

Dated: February ^{14th} 2007.

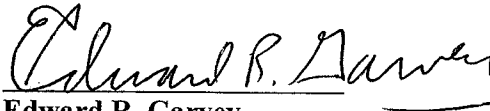
Attorneys for Defendants



Corey Finkelmeyer
STATE OF WISCONSIN
DEPARTMENT OF JUSTICE
P.O. Box 7857
Madison, WI 53707-7857

Dated: February ^{14th} 2007.

Attorneys for Plaintiffs



Edward R. Garvey
Pamela R. McGillivray
Carlos Pabellon
GARVEY MCNEIL & MCGILLIVRAY, S.C.
634 W. Main Suite 101
Madison, WI 53703
Telephone: (608) 256-1003
Fax: (608) 256-0933

David C. Fathi

NATIONAL PRISON PROJECT OF THE
ACLU FOUNDATION
915 15th St., N.W., 7th Floor
Washington, DC 20005
Not admitted in D.C.
Practice Limited to Federal Courts

2007 FEB 14 PM 1:17

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WISCONSIN

TERESA H. OWENS
CLERK US DIST COURT
WD OF WI

DENNIS JONES'EL, et al., on behalf of
themselves and all others similarly
situated,

Plaintiffs,

Case No. 00-C-421-C

v.

MATT FRANK, et al.,

Defendants.

MODIFIED SETTLEMENT AGREEMENT

INTRODUCTION:

~~Counsel for the Class of Plaintiffs in the Boscobel prison known as Supermax, were appointed by Federal Judge Barbara Crabb on October 10, 2000. The Department of Justice represented the Department of Corrections. Hundreds of pages of briefs and documents have been filed, expert opinions have come forward and discovery is underway. On October 11, 2001, the Court issued a preliminary injunction prohibiting the housing of seriously mentally ill prisoners at SMCI. Negotiations began in October to determine if the Parties could reach an amicable settlement. After more than 8 sessions, the Parties have reached a tentative agreement subject, of course to the approval of the Court and the Parties. Portions of the Agreement have already been implemented.~~

ARTICLE I: DEFINITIONS

1.1 "the Court" means the United States District Court to which this case is assigned.

1.2 "Defendants" means WDOC Secretary Jon Litscher, SMCI Warden Gerald Berge, their successors in office, subordinates, agents, contractors, and attorneys.

1.3 ~~"Electronic control device" means any device that delivers an electric shock, including but not limited to the Ultron II stun gun, stun shield, and Air taser.~~

1.4 ~~"Ultron II stun gun" is a hand held electronic control device which is applied directly to the inmates body while held by the approved officer.~~

1.5 ~~"Stun Shield" is an electronic control device consisting of a plastic shield equipped with an electrical device.~~

1.6 ~~"Air Taser" is an electronic control device which employs attached projectiles which deliver the electronic charge to the inmate from a distance.~~

1.7 "SMCI" means the prison currently known as the Supermax Correctional Institution, located in Boscobel, Wisconsin.

1.8 "Serious Mental Illness" shall be defined by the Court and "Seriously Mentally Ill" are used herein as defined by the Court in Exhibit B to the June 24, 2002 Judgment in the above-captioned matter, Docket No. 269, attached hereto and incorporated by reference.

1.9 "DOC" means the Wisconsin Department of Corrections, its subdivisions, agents, employees, contractors, and attorneys.

1.10 "Warden" means the Warden of SMCI or his/her designee.

1.11 "SMCI" means the same as Wisconsin Secure Program Facility ("WSPF") and the terms may be used interchangeably.

ARTICLE II: POPULATION

2.1 ~~All inmates transferred to SMCI will come in a specified segregation status. Implicit in such status is that each inmate who comes to the institution will have had the required due process to lawfully place him in that status.~~

ARTICLE III: MONITOR

3.1 ~~This Agreement became a reality when the Parties agreed to have a Court approved Monitor who understands the needs of the DOC as well as the rights of inmates.~~

~~The Parties have agreed to appoint a monitor who will be the intermediary between DOC and counsel for Plaintiffs, review complaints from inmates, visit the prison and have access to records at the Institution, staff and inmates when he/she deems it appropriate.~~

~~3.2 The Monitor may provide information deemed appropriate and necessary for the enforcement of this Agreement and Court approved settlement to Plaintiffs' counsel.~~

3.3 Plaintiffs shall retain the lawyer-client relationship as set forth in Judge Crabb's order and will retain the right to meet with inmates and review their files.

~~3.4 The Monitor shall report to the Court on the implementation of the Court's order and the Settlement Agreement on an annual basis or whenever he/she feels it is imperative to do so. The initial appointment shall be for two years with the possibility of extending the appointment for up to two additional years at the discretion of the Court.~~

~~3.5 The Parties have agreed that Attorney Steve Hurley will serve as the monitor. In the event that it shall become necessary to select a replacement for Attorney Hurley, Walter Dickey and Ken Morgan shall select from a pool of candidates acceptable to both parties.~~

~~3.6 Counsel for the Parties have agreed that the settlement documents should be brief, flexible and consistent with the spirit of the goal of managing a prison within constitutional limits. The Monitor, and order approving this settlement and continuing jurisdiction of the Court, are the substitute for excruciating detail otherwise necessary in a Court Order and Settlement Agreement.~~

3.7 Counsel for Plaintiffs shall have a continuing responsibility regarding the implementation of this Agreement. Reasonable attorney fees, expert fees, **including but**

not limited to consulting fees for Dr. Kenneth Robbins, and costs at market rates shall be provided for such purpose. If the parties are unable to resolve any dispute concerning such fees and costs, the dispute shall be referred to the Court for a decision. The Monitor shall determine any dispute over fees. Counsel shall have access to the prison, records, inmates and staff, through the Monitor, during the term of this Agreement. The Monitor's decisions are final unless appealed to the Court.

3.8 — The monitor's role shall extend no further than is necessary to enforce the terms of this agreement.

ARTICLE IV: NAME & SPECIFICATIONS

4.1 — The Building Commission shall determine the name of the prison. One possible name is *Sand Prairie Correctional Institute* (SPCI) but there is agreement that the institution shall not be known in any future literature of the DOC as a so-called "Supermax" prison.

4.2 — The goal is to utilize programming and a reward system to prepare inmates to progress to level five in order to transition to another less restrictive institution or to society. It shall not be identified by DOC as housing the "worst of the worst."

4.3 — All inmates, whether or not in the level program, shall have at least the same rights and privileges that prisoners in other maximum-security prisons in Wisconsin have in Program or Adjustment segregation.

4.4 — Prisoners assigned to SMCI shall be on Program Segregation status, i.e., a maximum of 365 days of segregation, or Administrative Confinement. No prisoners will be assigned to SMCI for Adjustment segregation.

4.5 — If a prisoner is required to serve Adjustment Segregation while at the

Institution, he shall be given a due process hearing and shall not be in that status for more than eight (8) days.

4.6 No seriously mentally ill prisoners will be sent to SMCI nor will seriously mentally ill prisoners at the facility be permitted to remain there. The Court will be asked to define serious mental illness.

~~4.7 No prisoners in protective custody status will be assigned to SMCI.~~

ARTICLE V: ENTRY LEVEL

~~5.1 Under current DOC rules, every prisoner who enters SMCI is automatically assigned to Level 1. While that will be the norm, an entering inmate could move directly to a different level based on the decision of the Warden under existing DOC rules.~~

~~5.2 The normal stay in Level 1 will be seven days with the following exceptions:~~

~~5.2.1 The Warden, for cause, may permit an extension of the stay in which case the inmate may be housed in Level 1 for no longer than an additional 7 days.~~

~~5.2.2 The monitor will be notified of any instance in which the warden deems it necessary to extend an inmates stay in Level 1 beyond a total of 14 days. No inmate will be held in level 1 for longer than 14 days unless he has received and been found guilty of a major conduct report or multiple minor conduct reports while in Level 1.~~

~~5.3 Prisoners, following observation, may be assigned to Level 2 or Level 3. The normal stay at Level 2 shall be 60 days.~~

~~5.4 — It is the goal of the Parties that the vast majority of inmates shall be on Levels 3, 4, or 5.~~

ARTICLE VI: LEVEL PROGRAM

~~6.1 — The policy handbook for SMCI shall be approved by the Monitor insofar as current policies are altered by this Agreement.~~

~~6.2 — The Monitor shall be asked to review the policy handbook and make certain that the rules for progressing through the level system are consistent with the Agreement, the Court's order, and the constitutional rights of the inmates. The rules shall be explained to the inmates.~~

ARTICLE VII: EDUCATIONAL MATERIAL

~~7.1 — Additional reading material will be provided for those on Level 1 and they will have video programs.~~

~~7.2 — All prisoners above Level 1 shall have television and additional program material.~~

~~7.3 — Out of cell educational programming shall be expanded for Levels 4 and 5.~~

ARTICLE VIII: OUT OF CELL ACTIVITY

~~8.1 — Level 1. Inmates shall receive not less than 5 hours out of cell per week which may be used for exercise. Visits shall not count against that time.~~

~~8.2 — Level 2. Inmates shall receive not less than 5 hours out of cell per week which may be used for exercise. Visits shall not count against that time.~~

~~8.3 — Level 3. Inmates shall receive not less than 5 hours out of cell per week which may be used for exercise. Visits shall not count against that time.~~

~~8.4 Level 4 & 5: Inmates shall receive not less than 10 hours out of cell per week at least five of which may be used for exercise. Congregate activity will be encouraged. Educational activities, jobs, and day room activities may be allowed at the discretion of the warden in addition to the allotted 10 hours.~~

~~8.5 Outdoor Exercise Area: By April 1, 2002, or as soon thereafter as possible, there will be an outdoor recreation area available to all inmates on Levels 3, 4, 5. The prisoner's preference for indoor or outdoor exercise shall be considered.~~

~~8.6 The indoor recreation areas shall be heated. The goal is 68 degrees. Proper ventilation or fans will be utilized in summer.~~

8.7 Inmates shall receive not less than 5 hours out of cell exercise per week. Law library time permitted by WSPF shall not be counted against the minimal out-of-cell time for any inmate.

ARTICLE IX: LIGHTS

~~9.1 Night lights shall be reduced by at least 60% with the replacement of current bulbs with 5 watt bulbs or less.~~

~~9.2 Inmates shall be permitted to cover their eyes so long as some facial skin is exposed for inspection purposes.~~

ARTICLE X: CANTEEN PRIVILEGES

~~10.1 It is recognized that there are minor variances throughout the system in Wisconsin but it is agreed that canteen privileges in SMCI shall be approximately the same as in other maximum security prisons.~~

ARTICLE XI: VISITS

~~11.1 Prisoners at levels 4 & 5 shall have the right to face-to-face non-contact visits. DOC will determine if this privilege can be extended to Level 3.~~

~~11.2 Visits by video shall be made available at least from Milwaukee and Racine as soon as practicable.~~

ARTICLE XII: RESTRAINTS

~~12.1 Prisoners on level 4 shall move toward no restraints. It is understood that those entering Level 4 may require a transition from Level 3 to Level 4 before having restraints removed.~~

~~12.2 Those on Level 5 will not normally have restraints and those on Level 4 will not normally have restraints following the transition period.~~

~~12.3 No prisoner may be held in the so-called 5-point restraint absent specific permission from medical staff and the Warden.~~

~~12.4 The air taser shall not be used in cell.~~

~~12.5 Electronic control devices shall not be used on prisoners who are taking anti-psychotic medications or anti-depressant medications.~~

ARTICLE XIII: MISCELLANEOUS ISSUES

~~Dental and health issues:~~

~~13.1 The defendants shall develop and implement a written policy to provide for dental emergencies which may arise when the institution dentist is not present or available to report to the institution.~~

~~13.2 The defendants shall make every effort to ensure that the contracted providers maintain the dental staff at the levels set forth in the current contract with the~~

~~dental provider and shall make every effort to fill any vacancies as quickly as is reasonably possible.~~

~~13.3 The defendants shall develop and implement a system of making medical entries and maintaining inmate medical records.~~

~~13.4 Inmates entering SMCI shall receive an initial health screening which shall include a complete review of essential medications.~~

~~13.5 Medical staff members shall only undertake tasks which are consistent with their level of credentials and training.~~

~~13.6 Consistent with security policy, inmates shall be permitted to request that any discussions involving confidential medical information be conducted in a private setting.~~

~~13.7 The defendants shall make reasonable efforts to ensure that the contracted providers are providing medical care that is consistent with standards set forth in the contract with the contracted provider.~~

~~13.8 Confidential medical records shall only be reviewed by persons with the appropriate status or position.~~

~~Religious Articles.~~

~~13.9 In accordance with the DOC IMP covering religious articles, inmates shall normally be permitted to possess the following items:~~

~~13.9.1 protestant inmates bible on all levels other books and literature depending on level~~

~~13.9.2 islamic inmates black kufi 24 x 40 prayer rug—
Qur'an on all levels other books/literature depending on level~~

~~13.9.3 Jewish inmates torah (Bible) Talith (pocket size) on all levels—
other books/literature depends on level~~

~~13.9.4 catholic inmates bible plastic, black rosary on all levels other books/literature depending on level~~

~~13.9.5 native american inmates one braid of sweet grass(app. 2 inches long) religious text on all levels other books/literature depending on levels~~

~~13.9.6 wiccan inmates religious text on all levels books/literature depends on level~~

~~13.9.7 buddhist inmates religious text on all levels other books/literature depending on levels~~

~~13.10 Food shall not be used as punishment.~~

~~13.11 Cell temperatures: The goal shall range between 68 and 72 degrees during the winter spring and fall. Inmates requesting additional warmth will be given extra blankets and a long sleeve underwear top.~~

~~13.12 The goal for cell temperatures in summer shall be 80-84 degrees. DOC will investigate and implement as practical a means of cooling the cells during summer heat waves.~~

~~13.13 No additional video cameras will be installed.~~

~~13.14 Showers: Prisoners shall be allowed no fewer than three showers per week~~

~~13.15 Shutters to the cell vestibule will be open in Alpha unit. Shutters in Alpha unit shall open to the hallway.~~

~~13.15 Calendar clocks shall be installed in all cells and kept on time and in good working order by DOC.~~

~~13.16 Phone privileges for inmates shall be available at all levels and will be comparable to other maximum security facilities. The number of minutes per level shall be at least: —~~

- ~~_____ Level 1: one 10 minute call per month~~
- ~~_____ Level 2: two 10 minute calls per month~~
- ~~_____ Level 3: three 10 minute calls per month~~
- ~~_____ Level 4: four 15 minute calls per month~~
- ~~_____ Level 5: five 15 minute calls per month~~

ARTICLE XIV: FEES & COSTS

14.1 Counsel for Plaintiffs and their expert witnesses shall be paid reasonable attorneys and expert fees and costs at market rates for time and expenses in connection with this suit including work leading up to the settlement agreement and securing its final approval from the Court under Rule 23(e).

14.2 ~~Defendants shall be responsible for the fees and reasonable costs of the Monitor and his agents, and for future reasonable attorney and expert fees and costs at market rates for counsel for plaintiffs to oversee the Court approved Settlement. It is understood that Judge Crabb shall retain jurisdiction for the duration of the Modified Settlement Agreement.~~

ARTICLE XV: PLRA COMPLIANCE AND COURT JURISDICTION

15.1 It is understood and agreed by the parties that the Court shall retain jurisdiction to enforce the terms of this **Modified Settlement Agreement for the duration thereof.**

15.2 The parties stipulate, based on the entire record, that the relief granted by this **Modified Settlement Agreement** is narrowly drawn, extends no further than necessary to correct the alleged violations of plaintiffs' federal rights, and is the least intrusive means necessary to correct the alleged violations of plaintiffs' federal rights.

15.3 ~~In order to allow for proper implementation of this Agreement, the parties agree not to seek to modify or terminate or otherwise challenge this Agreement, or any order approving or implementing this agreement, for a period of five years from the date the Court finally approves this Agreement pursuant to Fed. R. Civ. P. 23(e).~~

15.4 The settlement of this matter does not constitute, and should not be construed as an admission or indication of liability on the part of the defendants and shall not be relied upon as precedent in any future claims. **Similarly, individual members of the plaintiff class do not waive any right to seek injunctive relief or damages by asserting a constitutional violation related to any of the provisions that have been deleted above from the Settlement Agreement.**

15.5 The Parties agree that the relief granted by this **Modified Settlement Agreement** is consistent with all requirements of PLRA.

ARTICLE XVI: DAMAGES

~~16.1 The Defendants agree to pay \$3,500 each to the original Plaintiffs, Dennis Jones'el and Micha'el Johnson.~~

ARTICLE XVII: MENTAL HEALTH SCREENING PROCESS

17.1 Except as otherwise provided in this paragraph, every prisoner transferred to WSPF, regardless of status, shall prior to his physical transfer receive a face to face evaluation by a qualified mental health clinician to determine whether the prisoner suffers from Serious Mental Illness. Prisoners transferred to WSPF because of a disturbance or to prevent a disturbance as defined under Wis. Admin. Code § DOC 306.02(7) or transferred because of an emergency as defined under § DOC 306.02(9), shall receive a face to face evaluation by a qualified mental health

clinician for Serious Mental Illness within 10 working days of physical transfer to WSPF.

17.2 By this Agreement, the Parties request the Court to appoint Joseph Layde, M.D., as the psychiatric monitor. The role of the psychiatric monitor shall extend no further than necessary to enforce the terms of the Modified Settlement Agreement. The term of the psychiatric monitor shall terminate when the Modified Settlement Agreement terminates. In discharging his duties, the psychiatric monitor shall consult with plaintiffs' psychiatric expert, Kenneth Robbins, M.D., and with defendants' Director of Mental Health Services, Kevin Kallas, M.D. Defendants shall compensate the psychiatric monitor at his customary hourly rate and shall reimburse his reasonable expenses.

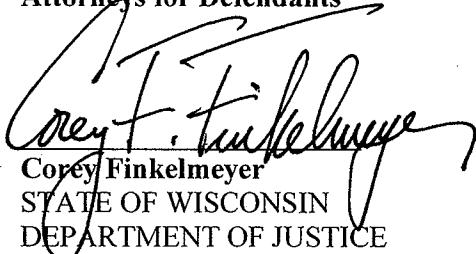
17.3 The Department of Corrections may in its discretion send non-Seriously Mentally Ill general population prisoners to WSPF after February 9, 2007.

17.4 This Modified Settlement Agreement shall terminate automatically one year from the date of the Court's order approving the modifications. Such approval shall occur after the plaintiffs' class has had notice and an opportunity to comment on the modification, as provided under Fed. R. Civ. P. 23(e).

17.5 There shall be no evidentiary hearing prior to the termination of the Modified Settlement Agreement.

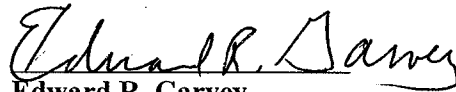
Dated: February 14th, 2007.

Attorneys for Defendants


Corey Finkelmeyer
STATE OF WISCONSIN
DEPARTMENT OF JUSTICE
P.O. Box 7857
Madison, WI 53707-7857

Dated: February 14th, 2007.

Attorneys for Plaintiffs


Edward R. Garvey
Pamela R. McGillivray
Carlos Pabellon
GARVEY MCNEIL & MCGILLIVRAY, S.C.
634 W. Main Suite 101
Madison, WI 53703
Telephone: (608) 256-1003
Fax: (608) 256-0933

David C. Fathi
NATIONAL PRISON PROJECT OF THE
ACLU FOUNDATION
915 15th St., N.W., 7th Floor
Washington, DC 20005
Not admitted in D.C.
Practice Limited to Federal Courts

DOC NO
REC'D/FILED

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

2007 FEB 14 PM 1:17
THERESA H. OWENS
CLERK US DIST COURT
WD OF WI

DENNIS JONES'EL, et al., on behalf of
themselves and all others similarly
situated,

Plaintiffs,

Case No. 00-C-421-C

v.

MATT FRANK, et al.,

Defendants.

NOTICE OF PROPOSED CLASS ACTION MODIFICATION
OF SETTLEMENT AGREEMENT

YOU SHOULD READ THIS NOTICE IF YOU ARE A PRISONER CONFINED AT
THE WISCONSIN SECURE PROGRAM FACILITY (WSPF)

Description of Lawsuit

This lawsuit was filed in 2000 by prisoners at the Supermax Correctional Institution (SMCI), now known as the Wisconsin Secure Program Facility (WSPF). The lawsuit alleges that certain conditions of confinement at WSPF violate the Eighth and Fourteenth Amendments to the United States Constitution and other provisions of federal law.

The defendants in the lawsuit are Matt Frank, Secretary of the Wisconsin Department of Corrections (DOC), and Richard Schneider, Warden of WSPF.

The Court has ruled that the lawsuit may proceed as a class action on behalf of all prisoners who are now, or who will in the future be, confined at WSPF. All inmates at WSPF are part of the plaintiffs' class.

The defendants and the plaintiffs reached a settlement in this lawsuit that was approved by the Court by order dated March 28, 2002. The Judgment in the case was entered by the Court on June 24, 2002.

The Settlement Agreement provided for preventing seriously mentally ill inmates from being housed at WSPF, reducing the temperature in the cells, construction of an outdoor exercise area and heating the indoor exercise area, setting limits for telephone privileges and visitation, among other provisions.

During a hearing on May 12, 2006, the Court moved for termination of the Settlement Agreement. A hearing was held on the motion for termination beginning on February 5, 2007. During the hearing, on February 9, 2007, the parties reached a proposed agreement that would modify the Settlement Agreement.

Purpose of this Notice

The purpose of this notice is (1) to advise you of the existence of this lawsuit; (2) to inform you that the Court has ruled that this case may proceed as a class action lawsuit; (3) to inform you of your rights; and (4) to inform you that a proposed Modified Settlement Agreement has been reached. The proposed Modified Settlement Agreement, if approved by the Court, will be a final decision on the issues raised in the lawsuit and, because the case is a class action, will be binding upon all members of the class.

This notice should not be understood as an expression of any opinion by the Court concerning the merits of this lawsuit. However, the Court has made a preliminary determination that the proposed Modified Settlement Agreement is within the range of fair, reasonable, and adequate settlements.

This notice is being given to you as required by Rule 23(e) of the Federal Rules of Civil Procedure and by Order of the Court.

Proposed Modified Settlement Agreement

The parties have negotiated a proposed modified settlement of all remaining disputed claims in this case. A copy of the proposed Modified Settlement Agreement is being provided to you along with this notice. The proposed Modified Settlement Agreement prohibits seriously mentally ill inmates from being housed at WSPF and provides for a psychiatric monitor from outside the Department of Corrections who has been charged with overseeing an evaluation process to ensure no seriously mentally ill inmates are transferred to WSPF or remain housed there. Moreover, the Modified Settlement Agreement clarifies that inmates have the right to at least five hours of out of cell exercise per week. The terms of the proposed Modified Settlement Agreement will terminate one year after the Court approves the Modified Settlement Agreement. The remaining provisions of the Settlement Agreement have been terminated under the proposed Modified Settlement Agreement.

The proposed Modified Settlement Agreement does not affect any WSPF prisoner's right to bring an individual lawsuit for money damages if he wishes to do so. Moreover, an individual prisoner may bring claims based on the provisions of the Settlement Agreement that have been terminated once the Court approves the Modified Settlement Agreement.

If you have questions about the proposed Modified Settlement Agreement, you may contact one of the attorneys for the plaintiff class at:

GARVEY MCNEIL & MCGILLIVRAY, S.C.
634 W. Main St., Suite 101

Madison, Wisconsin 53703

The lawyers for the plaintiff class have reviewed the proposed Modified Settlement Agreement and believe that it is in the best interests of the plaintiff class. Accordingly, the lawyers recommend to the class representatives and other class members that they accept the proposed Modified Settlement Agreement.

The proposed Modified Settlement Agreement will become final only after the Court holds a hearing and approves it as fair, reasonable, and adequate. You have the right to comment on the proposed Modified Settlement Agreement before the Court holds this hearing.

Notice of Hearing on Proposed Settlement Agreement

The Honorable Barbara B. Crabb, the judge hearing this matter, has ordered that a hearing be held on Apr. 25, 2007 at 8:30 in Room 250 of the United States Courthouse, 120 N. Henry Street, Madison, Wisconsin 53703 to determine whether to approve the proposed Settlement Agreement as recommended by class counsel.

Comments or objections by class members will be considered only if in writing and filed with or mailed to the Court at:

Theresa Owens, Clerk
U.S. Dist. Court W.D. Wis.
US Courthouse
120 N. Henry Street, Rm. 320
PO Box 432
Madison, WI 53703-2559

by Mar. 28, 2007. The comments should contain a caption or heading similar to the one on this Notice and should, at a minimum, include the case number in a

prominent place on the front page. For your convenience, a comment form has been provided with this notice.

Class members who have questions about how to object to the proposed Modified Settlement Agreement or who need assistance submitting materials to the Court may contact the attorneys for plaintiffs at:

GARVEY MCNEIL & MCGILLIVRAY, S.C.
634 W. Main St., Suite 101
Madison, Wisconsin 53703

Attendance at the hearing is not necessary. Class members who approve of the proposed Modified Settlement Agreement do not need to write to the Court or take any other action to indicate their approval.

If you wish to file any comments or objections with the Court, you must also mail copies of any filings to the attorneys for the parties at the addresses below:

GARVEY MCNEIL & MCGILLIVRAY, S.C.
634 W. Main St., Suite 101
Madison, Wisconsin 53703

STATE OF WISCONSIN DEPARTMENT OF JUSTICE
Assistant Attorney General Corey Finkelmeyer
P.O. Box 7857
Madison, WI 53707-7857

Dated this 14th ^{February} day of ~~January~~, 2007.


BARBARA B. CRABB
Chief Judge

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

**DENNIS JONES'EL, et al., on behalf of
themselves and all others similarly
situated,**

Plaintiffs,

Case No. 00-C-421-C

v.

MATT FRANK, et al.,

Defendants.

**COMMENTS ON THE PROPOSED CLASS ACTION
MODIFIED SETTLEMENT AGREEMENT**

I, _____, am a member of the
class of all prisoners who are now, or who will in the future be, confined to WSPF and
hereby state the following objections to or comment on the Proposed Class Action
Modified Settlement Agreement in the above-referenced matter.

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

**DENNIS JONES'EL, et al., on behalf of
themselves and all others similarly
situated,**

Plaintiffs,

Case No. 00-C-421-C

v.

JON LITSCHER and GERALD BERGE,

Defendants.

**ORDER DIRECTING NOTICE TO PLAINTIFF CLASS AND
SCHEDULING FAIRNESS HEARING**

The Court has considered the parties' Joint Motion for Approval of Modified Settlement Agreement, and all other appropriate materials.

The Court provisionally finds that the proposed Modified Settlement Agreement ("the Agreement"), attached hereto as Exhibit A, is a fair, reasonable, and adequate resolution of this class action. The Court further finds that the proposed notice to class members is adequate, and that a hearing should be held to allow the Court (1) to consider class members' comments on the Modified Agreement and (2) to finally determine whether the Modified Agreement is a fair, reasonable, and adequate resolution of this class action.

NOW, THEREFORE, IT IS ORDERED:

- (1) Within five (5) days of the date of this Order, Plaintiffs' counsel shall send by U.S. Mail to each prisoner housed at the Wisconsin Secure Program

Facility ("WSPF") a copy of the Notice of the Proposed Class Action Modification of Settlement Agreement attached hereto as Exhibit B, and a copy of the Modified Settlement Agreement.

- (2) Class members wishing to object to or otherwise comment on the proposed Modified Settlement Agreement may file written submissions with the Court within 30 days after the Court enters the Notice of the Proposed Class Action Settlement. These submissions shall be mailed to the following address: Theresa Owens, Clerk, U.S. Courthouse, 120 N. Henry Street, Room 320, P.O. Box 432, Madison, WI 53703-2559.
- (3) Counsel for the parties may file responses to such submissions by April 11, 2007.
- (4) A hearing pursuant to Fed. R. Civ. P. 23(e) shall be set by the Court at the U.S. District Court for the Western District of Wisconsin, 120 N. Henry Street, Madison, WI 53703.

Entered this 14th day of February, 2007.

BY THE COURT:

Barbara B. Crabb
Honorable Barbara B. Crabb
Chief Judge

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

**DENNIS JONES'EL, et al., on behalf of
themselves and all others similarly
situated,**

Plaintiffs,

Case No. 00-C-421-C

v.

MATT FRANK, et al.,

Defendants.

ORDER APPROVING THE MODIFIED SETTLEMENT AGREEMENT

The Court has considered the parties' Joint Motion for Approval of the Modified Settlement Agreement, the comments of class members regarding the proposed Modified Settlement Agreement, the responses of the parties to those comments, and all other appropriate materials.

The Court finds that the resolution of this class action embodied in the proposed Modified Settlement Agreement, attached hereto as Exhibit A and incorporated herein by reference in its entirety, is fair, reasonable, and adequate. Therefore, the Modified Settlement Agreement is APPROVED and is adopted as an Order of this Court.

The parties have stipulated, and the Court on the entire record finds, that the relief granted by the Modified Settlement Agreement is narrowly drawn, extends no further than necessary to correct the alleged violation of plaintiffs' federal rights, and is the least intrusive means necessary to correct the alleged violation of plaintiffs' federal rights.

The Court shall retain jurisdiction to enforce the terms of the Modified Settlement Agreement.

Entered this ____ day of _____, 2007.

BY THE COURT:

Honorable Barbara B. Crabb
Chief Judge