

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

COPY

SCOTT TILLMAN and WILLIAM
LENNEAR, etc., et al.,

Plaintiffs,

vs.

Case No. 83-199-CIV-ORL-22

CLAUDE MILLER, etc., et al.,

Defendants.

SCOTT TILLMAN and WILLIAM
LENNEAR, etc., et al.,

Plaintiffs,

vs.

Case No. 83-285-CIV-ORL-22

CLAUDE MILLER, etc., et al.,

Defendants.

LARRY EUGENE BROWN, JR.

Plaintiff,

vs.

Case No. 88-281-CIV-ORL-22

JERRY W. HICKS, et al.,

Defendants.

ORDER APPROVING FINAL CONSENT DECREE

THIS MATTER came before the Court for a fairness hearing for approval of the Final Consent Decree executed by the parties on June 30, 1993.

Background

This action began in 1983 with the filing of pro se complaints

by plaintiffs Tillman and Lennear. On May 27, 1983 plaintiffs secured the services of James K. Green, Esq. and other counsel who filed an amended complaint challenging the constitutionality of conditions of confinement at the Brevard County Jail. The conditions challenged related to housing, sanitation, plumbing, recreation, ventilation, classification, lack of due process, staffing, medical care, visitation, and law library access.

On February 6, 1984, this Court entered an order abstaining from adjudicating the claims presented in Count I of the Amended Complaint until the conclusion of state court litigation Department of Corrections v. Claude Miller, et al., Case No. 81-6665 (Fla. 18th Judicial Cir. 1981) which also challenged many of the conditions of confinement complained of in this action. On June 30, 1987, the state court action was dismissed for mootness.

On July 21, 1988, the parties entered into a Partial Stipulation and Agreement for Consent Decree in this case. On June 30, 1993, the parties entered into a Final Consent Decree.

The Settlement

The Partial Stipulation and Agreement for Consent Decree requires that defendants provide plaintiffs a law library and access thereto. It further requires that defendants modify attorney-client conference rooms to prevent conversations within such rooms from being overheard and to improve visitation areas so that inmates can communicate adequately in a normal conversational voice with visitors.

In the Final Consent Decree, defendants agree not to operate

the Brevard County Jail in an overcrowded condition and in excess of its overall capacity of 732 inmates or in excess of the cell-by-cell capacity approved by the Florida Department of Corrections. The final decree further provides for notification of plaintiffs' counsel and Chief Judge of the Circuit Court of the Eighteenth Judicial Circuit in the event that the jail populations exceed approved capacities. Defendants also agree to hire a corrections expert on jail classification who will prepare a report recommending improvements in classification that will help reduce overcrowding and who will prepare a plan to reduce inmate population in the event that the overall or cell-by-cell population exceeds available capacity.

The remaining issues raised in plaintiffs' Amended Complaint have been resolved through remedial action taken by defendants pursuant to the state court litigation to comply with Chapter 33-8, F.A.C.

Findings

1. The Court, having held a hearing pursuant to court-ordered notice to the plaintiff class in accordance with Rule 23(e) of the Federal Rules of Civil Procedure, finds that the terms of the Final Consent Decree and the Partial Stipulation and Agreement for Consent Decree, dated July 21, 1988, provide for a fair, adequate and reasonable settlement of the claims asserted in the complaint, with the exception of plaintiffs' claims for attorney's fees, costs and expenses.

2. The Plaintiff class has been provided adequate notice.

3. Any objections to the above decrees are hereby overruled.
4. Plaintiffs' counsel is experienced in jail litigation and other institutional reform litigation and has recommended this settlement.


ORDER

1. Defendants are hereby ordered to comply with the terms and conditions of the Final Consent Decree and the Partial Stipulation and Agreement for Consent Decree.

2. The Court retains jurisdiction over this action pursuant to the provisions set forth in paragraph V(C) of the Final Consent Decree.

3. The Court retains jurisdiction over the issue of plaintiffs' attorney's fees should the parties be unable to resolve same.

DONE AND ORDERED at Orlando, Florida, on this 3d day of ~~November~~ ^{December}, 1993.


DAVID BAKER
UNITED STATES MAGISTRATE JUDGE

Copies furnished:

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