

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

JEFFERY PRESLEY, et al.,

Plaintiffs,

v.

No. 4:05-CV-00148-M-D

CHRISTOPHER EPPS, et al.,

Defendants.

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

TO: ALL PRISONERS CONFINED IN UNIT 32 AT THE MISSISSIPPI STATE
PENITENTIARY IN PARCHMAN, MISSISSIPPI.

READ THIS CAREFULLY ! IT MAY AFFECT YOUR LEGAL RIGHTS !

The Defendants have agreed to settle a class action lawsuit now pending in the United States District Court for the Northern District of Mississippi. The lawsuit was filed in June 2005 by the National Prison Project of the American Civil Liberties Union (ACLU), the Mississippi ACLU, and Holland & Knight, LLP, on behalf of four individual prisoners seeking relief for all prisoners confined in Unit 32 of the Mississippi State Penitentiary at Parchman, Mississippi. The Plaintiffs claimed that the Mississippi Department of Corrections subjects the prisoners in Unit 32 to inhumane living conditions and excessive force, deprives them of medical and mental health treatment, and denies them procedural due process in housing them in Unit 32. The Plaintiffs asked for an injunction guaranteeing improved conditions for all prisoners housed in Unit 32, and they asked to be allowed, through their lawyers, to have the suit recognized as a class action, so that any remedy they obtained would apply to all the prisoners in Unit 32.

THE PURPOSE OF THIS NOTICE IS TO INFORM YOU OF:

**THE STATUS OF THE LAWSUIT, INCLUDING A STATEMENT OF YOUR RIGHTS
WITH RESPECT TO A PROPOSED SETTLEMENT OF THE CASE, INCLUDING A
PROPOSAL TO HAVE THE CASE RECOGNIZED AS A CLASS ACTION; AND**

**THE OPPORTUNITY TO FILE WITH THE COURT ANY OBJECTIONS
YOU MAY HAVE TO THE PROPOSED SETTLEMENT**

1. The Settlement Class. The Parties have agreed to and the Court has approved a "Settlement Class" pursuant to Federal Rules of Civil Procedure 23(b)(2). The "Settlement Class" is made up of all prisoners who are now or will in the future be confined in Unit 32 of the Mississippi State Penitentiary in Parchman, Mississippi. If the Court approves a settlement of the Plaintiffs' Complaint, it will cover all members of the Settlement Class and it may affect your rights.
2. Proposal to Settle the Case By Adoption of a Consent Decree. The Plaintiffs and Defendants have entered into an agreement to settle the lawsuit by entering into a "Consent Decree." No settlement will take place unless the Court decides to approve the proposed Consent Decree, after considering any and all objections that might be filed by members of the Settlement Class (that is, prisoners confined in Unit 32). If the Court approves the proposed Consent Decree, the Court will issue the Consent Decree as a federal court order, and the Plaintiffs will be entitled to enforce it, through Plaintiffs' lawyers, in federal court.
3. The Proposed Settlement Would Be Instead of a Trial If the proposed Consent Decree is adopted, there will be no trial and the Consent Decree will require the Defendants to make specified improvements in the living conditions and in the medical and mental health treatment for all prisoners housed in Unit 32. It will also require the Defendants to implement a system whereby prisoners could challenge their assignment to Unit 32, and a system whereby Unit 32 prisoners could earn their way into less restrictive housing through good behavior. If the case is not settled, it will eventually go to a trial and at the end of the trial the Judge will decide whether the Plaintiffs are entitled to any remedies for their complaints, and if so what those remedies should be.
4. No Money Damages Are Involved in This Case. The lawsuit does not involve money damages, so whether or not this case settles or goes to trial, no class member will obtain money from the Defendants.
5. Enforcement of the Terms of the Proposed Consent Decree. Under the terms of the proposed Consent Decree, Plaintiff's Counsel (the ACLU) and their experts would be authorized to monitor conditions in Unit 32 and if necessary to bring proceedings in federal court to compel compliance with the terms of the Consent Decree. The United States District Court for the Northern District of Mississippi would have continuing jurisdiction to enforce the provisions of the Consent Decree.
6. Terms of the Proposed Consent Decree. The terms of the proposed consent decree would require the Defendants to do the following:
 - (A) ensure that the cell to which a prisoner is moved is clean prior to the move and provide adequate cleaning supplies and equipment;
 - (B) From May through September, ensure that each cell throughout Unit 32 is equipped

with a fan, and provide a 32-ounce cup of ice to each prisoner in Unit 32 three times a day;

(C) Ensure that each prisoner is allowed to take a shower every day, six days per week, year round;

(D) Implement an effective mosquito eradication and pest control program;

(E) Eradicate the problem of "ping-pong" toilets in every cell in Unit 32;

(F) Make sure that there is adequate lighting in every cell;

(G) Make sure that the medical services provider delivers adequate medical care for serious health needs;

(H) Ensure that medical service providers do not require prisoners to make unreasonable co-payments for services;

(I) Provide appropriate care for patients with chronic diseases;

(J) Provide appropriate off-site medical consultation, hospitalization, and specialty care for patients in need of those services;

(K) Provide adequate mental health care;

(L) Provide housing for prisoners with psychosis and severe mental health illnesses separate and apart from all other prisoners that is appropriate in light of their special needs;

(M) Prevent excessive risk to prisoners of staph infection;

(N) Ensure that food trays are properly cleaned and sanitized prior to food service, that food portions are adequate, and that food is served at appropriate and safe temperatures;

(O) Allow prisoners out-of-cell exercise and complete the new exercise pens completed no later than July 1, 2006;

(P) Reasonably ensure that all incidents of major force by correctional staff against prisoners are thoroughly investigated and documented and that the use of excessive force is not tolerated;

(Q) Provide all prisoners who are assigned to Unit 32, and not sentenced to death, with prior notice of the factual bases for the assignment to Unit 32, a hearing, an opportunity to appeal, and at least a semi-annual review with the same rights of notice, opportunity to be heard, and appeal;

(R) Formulate and implement a plan whereby all prisoners who are assigned to Unit 32 and not sentenced to death may, through good behavior and a step-down system, earn their way to less restrictive housing.

The summary of the Proposed Consent Decree Settlement Agreement in this notice does not include all of the terms and conditions of the proposed settlement. The only complete statement of the terms of the proposed settlement is found in the actual *Proposed Consent Decree*. A copy of the *Proposed Consent Decree* has been attached to this Notice. You may also obtain a copy of the *Proposed Consent Decree* by writing to:

Margaret Winter / Gouri Bhat
The National Prison Project of the ACLU
915 15th Street NW, Seventh Floor
Washington, DC 20005.

7. Reasons for Settlement. Class Counsel has concluded that the terms and conditions of the proposed Consent Decree are fair, reasonable, and adequate and are in the best interests of the class. In reaching this conclusion, Class Counsel has carefully analyzed the benefits of the settlement, the risks of an unfavorable outcome in this litigation, as well as the length of time that would be needed to prosecute this case through a trial and possible appeals.
8. No Effect on Cases for Money Damages. The proposed Consent Decree will *not* affect any claims for damages brought by Settlement Class members.
9. If You Have No Objection to the Proposed Consent Decree. If you have no objection to the Court approving the proposed Consent Decree, you do not have to do anything.
10. If You Object to the Proposed Consent Decree. If you believe that the Court should not approve the settlement of this case because you object for any reason to the terms of the proposed Consent Decree, you may object. If you wish to object, you must submit the objection in writing. The objections must contain the following information:
 - (A) The case name and number: *Presley v. Epps.*, Case No. 4:05-CV-00148
 - (B) Your full name and MDOC number; and
 - (C) What it is exactly that you object to about the Settlement Agreement; with an explanation of why you object;

For your objection to be considered by the Judge, you must mail it by March 28, 2006 to the Clerk of the Court with a copy to Plaintiffs' counsel, at the following addresses:

Clerk of the United States District Court
ATTENTION: PRESLEY V. EPPS
P.O. Box 190
Greenville, Mississippi, 38701-0190

National Prison Project of the ACLU
ATTENTION: PRESLEY V. EPPS
915 15th Street, N.W., Seventh Floor
Washington, D.C., 20005

Leonard Vincent / Jim Norris
ATTENTION: PRESLEY V. EPPS
MDOC Law Office
P.O. Box 38
Parchman, Mississippi 38738

11. Fairness Hearing: After reviewing all the objections that were filed on time, Judge Davis will hold a hearing on April 28, 2006, at 9:30 AM, in the U.S. Court House in Aberdeen, Mississippi, to decide whether or not to approve the proposed Consent Decree. If the Judge decides that the proposed Consent Decree is fair, adequate, and a reasonable compromise of this case, then the proposed Consent Decree will become final.
12. Questions About the Proposed Consent Decree. If you have questions about the proposed Consent Decree or the settlement of this case or wish to review any of the documents in this case, you may contact Plaintiffs' counsel by writing to:

Margaret Winter / Gouri Bhat
The National Prison Project of the ACLU
915 15th Street N.W., Seventh Floor
Washington, DC 20005-2302

13. If the Court Does Not Approve the Proposed Consent Decree. If, after the Fairness Hearing, the Court decides not to approve the Proposed Consent Decree, the proposed Consent Decree will be voided and will have no further effect. The case will not be settled, but will go to trial. If that happens, there is no assurance that any decision at trial will be in favor of the class members; or that even if there is a favorable trial decision, it will be as favorable to the Plaintiffs as the Proposed Consent Decree would have been; or that any such favorable trial decision would be upheld on appeal.

Approved this 6th day of March, 2006

/s/ JERRY A. DAVIS
UNITED STATES MAGISTRATE JUDGE