

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

MILES MORAN and GERARD TAYLOR,
for themselves and all others similarly
situated,

Plaintiffs,

v.

KEVA LANDRUM-JOHNSON, et al.,

Defendants.

Case No. 19-cv-13553-EEF-MBN
Consolidated with 20-cv-1275
(This filing pertains to both cases)
(Class Action)

STIPULATION OF DISMISSAL OF PLAINTIFFS' CLAIMS

In accordance with Fed. R. Civ. P. 41(a)(1)(A)(ii), Plaintiffs Miles Moran and Gerard Taylor of *Moran v. Landrum-Johnson*, 19-cv-13553-EEF-MBN; Plaintiffs Larry Matthews Jr. and Ernest Cloud of *Matthews v. Herman*, of 20-cv-1275-EEF-MBN, and Defendant Judges Laurie A. White, Tracey Flemings-Davillier, Benedict J. Willard, Kimya Holmes, Rhonda Goode-Douglas, Robin D. Pittman, Nandi Campbell, Camille Buras, Karen K. Herman, Darryl A. Derbigny, Marcus DeLarge, and Angel Harris, as Defendants in both cases,¹ stipulate to the dismissal with prejudice of all claims asserted against the Defendants in case numbers 19-cv-13553 and 20-cv-1275. The parties further stipulate that each party shall bear its own costs.

¹ By operation of Fed. R. Civ. P. 25(d), Defendants Campbell, DeLarge, Goode-Douglas, Harris and Holmes have been automatically substituted for former Judges of Orleans Parish Criminal District Court Paul Bonin, Arthur Hunter, Keva Landrum-Johnson, Dennis Waldron (previously designated as ad hoc judge of Section G), and Franz Zibilich, who were originally named as Defendants in these two actions.

During the course of this litigation, the Defendants issued an en banc order governing bail proceedings in Orleans Parish Criminal District Court.² As a result, the parties agree that Plaintiffs' claims have been resolved without further need of litigation.

The Parties thus pray that this Stipulation of Dismissal be granted and that all claims against Defendants be dismissed with prejudice, each party to bear its own costs.

Respectfully submitted,

/s/ Eric A. Foley

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Counsel for Plaintiffs

² The en banc order is attached to this Stipulation as Exhibit 1.

/s/ Mindy Nunez Duffourc

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CRIMINAL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

EN BANC ORDER

The Judges of the Criminal District Court of the Parish of Orleans,

Having regard for the delicate balance the Judges and Magistrate Commissioners must strike concerning a criminal defendant's pretrial rights as well as the protection of the community and ensuring that defendants do not flee from prosecution.

Having regard for the state and federal law governing bail and bail hearings, and

Having regard for the value of consistency in bail hearing procedures among all sections of the court,

Whereas:

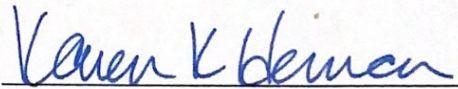
- (1) The Court En Banc, for the sake of all parties, agrees to memorialize for its Judges and Magistrate Commissioners, current and future, bail hearing procedures already in effect in the Criminal District Court for the Parish of Orleans.
- (2) The Due Process Clause of the Fourteenth Amendment provides that "[n]o state . . . shall deprive any person of life, liberty, or property without due process of law" U.S. Const. Amend. XIV.
- (3) Government action depriving a person of life, liberty, or property is implemented in a fair manner. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).
- (4) Federal law requires the following of judicial officers making initial bail determinations: (1) to afford defendants a right to counsel; (2) to inquire into a defendant's ability to pay including giving notice of the importance of ability to pay; (3) to consider alternative conditions of release prior to imposition of bail that exceeds a defendant's ability to pay; and (4) to make findings of fact and provide a statement of reasons regarding why the government has proven by clear and convincing evidence that no conditions of release can reasonably assure the safety of the community or any person and/or prevent flight from prosecution prior to imposition of bail that exceeds a defendant's ability to pay. *Caliste v. Cantrell*, Case 2:17-cv-06197.
- (5) State law requires consideration of various factors when fixing an amount of bail. LA. CCrP Art. 316.
- (6) State law sets forth the types of bail allowed as well as restrictions on types of bail. LA. CCrP Art. 321.
- (7) The Judges are permitted to, and must, for the sake of judicial economy, rely upon prior bail decisions and statements of facts and reasons regarding bail made by other Judges or judicial officers of the court.

IT IS HEREBY ORDERED, by the Court En Banc, consistent with already existing applicable law and Court procedures in this regard, that every defendant in Orleans Parish Criminal District Court shall be afforded a bail hearing that complies with the state and federal law governing bail, including and in

addition to the state law governing bail and bail hearings: (1) the right to an attorney; (2) notice of importance of and inquiry into ability to pay; (3) judicial consideration of available alternative conditions of release prior to imposition of bail that exceeds the defendant's ability to pay as determined by a judicial officer, and (4) findings of fact and statements of reasons why government has proven by clear and convincing evidence that no conditions of release can reasonably assure the safety of the community or any person and/or prevent flight from prosecution prior to imposition of bail that exceeds the defendant's ability to pay as determined by the judicial officer.

IT IS FURTHER ORDERED, by the Court En Banc, that once a judicial officer has determined bail in accordance with the state and federal law outlined in this En Banc Order, the Judges may reply upon those findings; however, if any judge imposes a new or more onerous financial conditions of release, they must re-consider the defendant's ability to pay and the availability of alternative conditions of release.

New Orleans, Louisiana this 4th day of February, 2021.

A handwritten signature in blue ink, reading "Karen K. Herman", is written over a horizontal line.

THE HONORABLE KAREN K. HERMAN
CHIEF JUDGE
On Behalf of the Court En Banc

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ORDER

It is hereby ordered, adjudicated, and decreed that all claims and demands of Plaintiffs Miles Moran and Gerard Taylor of *Moran v. Landrum-Johnson*, 19-cv-13553-EEF-MBN, and Plaintiffs Larry Matthews Jr. and Ernest Cloud of *Matthews v. Herman*, of 20-cv-1275-EEF-MBN, against Defendant Judges Laurie A. White, Tracey Flemings-Davillier, Benedict J. Willard, Kimya Holmes, Rhonda Goode-Douglas, Robin D. Pittman, Nandi Campbell, Camille Buras, Karen K. Herman, Darryl A. Derbigny, Marcus DeLarge, and Angel Harris are hereby DISMISSED in their entirety, WITH PREJUDICE, all parties to bear their own costs.

New Orleans, Louisiana this _____ day of _____, 2021.

Hon. Eldon E. Fallon
United States District Court Judge