

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

CLINTON NORTHCUTT, *et al.*,

Plaintiffs,

v.

SOUTH CAROLINA DEPARTMENT OF
CORRECTIONS, *et al.*,

Defendants.

Case No. 4:17-cv-03301-BHH-TER

Honorable Bruce Howe Hendricks

JOINT STATUS REPORT

The Parties, by and through the undersigned counsel, pursuant to the Court's July 22, 2020 Text Order (ECF No. 128), hereby submit this Joint Status Report.

Counsel for the Parties are engaged in an ongoing dialogue in hopes of achieving a full negotiated resolution of this case. SCDC's Death Row has been relocated with a significant change in conditions, and the parties continue to exchange information and materials regarding ongoing efforts related to the issues in this case, including the re-location of Death Row, issues related to Plaintiffs' property related to the move from Leiber Correctional, and continued work in drafting a new formal SCDC Death Row policy. Plaintiffs' counsel has conducted site inspections of both the 2018 SCDC Death Row Unit (formerly known as Kirkland MSU) and the current Death Row Unit at Broad River Correctional Institution ("BRCI"), the facility to which Plaintiffs were moved, with the most recent inspection occurring February 12, 2020.

In February 2020, the parties had a successful "Part 1" mediation, tentatively scheduling a continuing mediation session for May 5, 2020. Since the February 2020 Part 1 mediation, the

parties have exchanged additional information and materials, which all are confidential settlement negotiations, including a working draft of the new formal SCDC Death Row policy as well as a proposed Property Replacement Plan and ideas on other issues.

As planned at the close of mediation, Defendants responded to Plaintiffs' February 2020 proposals on April 15, 2020, providing Plaintiffs with a new proposed iteration of the draft Death Row Policy as well as a proposed Property Replacement Plan and ideas on other issues. Plaintiffs' counsel immediately commenced review of the new policy in coordination with their retained experts. Plaintiffs' counsel maintain that many aspects of both the operative and proposed Death Row policies and that conditions maintained at BRCI, while an improvement over those at the 2018 SCDC Death Row Unit (formerly known as Kirkland MSU), remain constitutionally deficient; Plaintiffs are working with their experts to generate more specific proposals on these issues for Defendants' consideration.

On Thursday April 30, 2020, Defendants' counsel advised that they would be unable to attend the May 5, 2020 mediation date due to expedited deadlines in newly filed separate expedited proceedings relating to the COVID-19 pandemic, which Defense counsel had just been retained to defend. Plaintiffs agreed to Defendants' request to reschedule the mediation, and the parties have scheduled the next mediation session for September 25, 2020. This mediation is a continuation of our prior mediation, using the additional documentation and materials exchanged since that mediation, most recently from Defendants' counsel to Plaintiffs' counsel, as well as the expected reply that Plaintiffs' counsel will be providing to Defendants' counsel prior to the September 25, 2020 mediation date.

Dated: July 27, 2020

Respectfully submitted,

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** Admitted *pro hac vice*