

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

J.P., and all others similarly situated, et al.,	:	
	:	Case No. 2:04cv692
	:	
Plaintiffs,	:	Judge Marbley
	:	
v.	:	Magistrate Judge King
	:	
Bob Taft, et al.,	:	
	:	
Defendants.	:	

ORDER PRELIMINARILY APPROVING SETTLEMENT, CONDITIONALLY CERTIFYING THE SETTLEMENT CLASS, DIRECTING NOTICE TO THE CLASS, AND SCHEDULING SETTLEMENT HEARING

Plaintiffs and Defendant Ohio Department of Youth Services, through its Director Tom Stickrath, have applied for an Order pursuant to Rule 23 of the Federal Rules of Civil Procedure seeking preliminary approval of a proposed settlement set forth in the Stipulation of Settlement dated January 5, 2007 and exhibits thereto, including the Consent Decree attached thereto as Exhibit A, and fixing certain matters in connection with the proposed Settlement, which Settlement provides, inter alia:

- i. for preliminary approval of the Settlement, including conditionally certifying the Class;
- ii. for a hearing to be held in this Court to determine whether the terms of the Stipulation of Settlement are fair, reasonable, and adequate to the Settlement Class, and setting forth the time and date thereof; and

- iii. for Notice to be disseminated to the Settlement Class to advise members of the Class of the terms of the class certification, their right to object, the attorneys' fees sought, and the date of the final fairness hearing.

Now, upon the consent of the parties, after consideration of the Settlement and the exhibits thereto, and after due deliberation, it is hereby,

ORDERED, that:

1. The Court hereby conditionally certifies the Settlement Class under Federal Rule of Civil Procedure Rule 23(b)(2) based on the following findings: (a) the Members of the Class are so numerous that joinder of all members in the class action is impracticable; (b) there are questions of law and fact common to the Class which predominate over any individual question; (c) the claims of the named Plaintiffs are typical of the claims of the Class; (d) Plaintiffs and their counsel have fairly and adequately represented and protected the interests of the Class; and (e) the Department of Youth Services has acted and intends to act on grounds generally applicable to the Class, thereby making appropriate final injunctive relief.

2. The Settlement Class under Rule 23(b)(2) shall be defined as follows: "All the individuals under DYS custody currently housed or to be housed at Circleville Juvenile Correctional Facility, Cuyahoga Hills Juvenile Correctional Facility, Freedom Center, Indian River Juvenile Correctional Facility, Marion Juvenile Correctional Facility, Mohican Juvenile Correctional Facility, Ohio River Valley Correctional Facility, Scioto Juvenile Correctional Facility, as well as Paint Creek Youth Center, until

termination of the Consent Decree.”

3. The Court preliminarily approves the Settlement as fair, adequate, reasonable and in the best interest of the Settlement Class.

4. A hearing in this Court shall be held on March 6 at 9:00 a. m. (the “Hearing”), (i) to determine whether the proposed Settlement is fair, reasonable, and adequate and should be approved by the Court, (ii) to determine whether the Consent Decree should be entered in this case pursuant to the Settlement, (iii) to determine whether an award of attorneys’ fees and expenses sought by Plaintiffs’ Counsel is fair and reasonable and should be approved by the Court, and (iv) to rule on such other matters as the Court may deem appropriate.

5. The Court reserves the right to adjourn the Hearing or any adjournment thereof without further notice other than oral announcement at the Hearing or any adjournment thereof.

6. The Court reserves the right, subject to the terms of the Settlement, to approve the Settlement with or without modification (subject to all parties’ written approval of any modification) and with or without further notice to the Class.

7. At its sole expense, Defendant shall provide Notice to the members of the Settlement Class in form and substance substantially similar to the “Notice” attached to the Stipulation as Exhibit B, to advise them of the terms of the class certification, their right to object, the attorneys’ fees sought, and the date of the final settlement hearing. The notice shall be posted on or before Jan. 23, 2007 and remain posted until the deadline for filing objections.

8. The method of notice specified herein is the best notice practicable and shall constitute due and sufficient notice of the Hearing to all persons entitled to receive such notice, and Defendant shall, at or before the Hearing directed herein, file proof of the posting of the Notice.

9. Any member of the Class who objects to the Settlement, the Consent Decree to be entered herein, and/or the award of attorneys' fees and expenses to Plaintiffs' Counsel, or who otherwise wishes to be heard, must mail notice of his or her objection to the Clerk of Court, including (i) a statement of such person's objections to any matter before the Court, and (ii) the grounds thereof or the reasons for such person's desiring to appear and to be heard, as well as all documents or writings which such person desires the Court to consider. Such objection must be mailed to the following address,

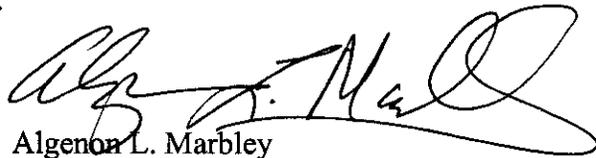
postmarked on or before February 23, 2007:
Office of the Clerk
Joseph P. Kinneary U.S. Courthouse
Room 260
85 Marconi Boulevard
Columbus, OH 43215

10. Unless the Court otherwise directs, no member of the Class shall be entitled to object to the approval of the Settlement, the Consent Decree to be entered herein, or the award of attorneys' fees and expenses to Plaintiffs' Counsel, or otherwise to be heard, except by serving and filing written objection as described above. Any person who fails to object in the manner prescribed above shall be deemed to have waived such objection and shall be forever barred from raising such objection in this or any other action or proceeding.

11. If the Settlement is not approved by the Court or shall not become effective for any reason whatever, the Settlement and any actions taken or to be taken in connection therewith (including this Order) shall be terminated, cancelled, and shall become void and have no further force and effect.

12. The Settlement and all negotiations related to it, and any proceedings in connection with the Settlement, whether or not the Settlement is consummated, are not and shall not be construed to be evidence of, or an admission by, any of the parties respecting the validity or invalidity of any of the claims that have been, or could have been, asserted in the pleadings in the Action, or of the liability of Defendant whatsoever, and shall not be offered for admission as evidence of such liability or wrongdoing or lack thereof.

Dated: Jan. 12, 2007.



Algenon L. Marbley
United States District Judge