

EXHIBIT

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Loyola University Law Journal

[Vol. 24

APPENDIX A

FAHEEM CONSENT DECREE

Plaintiffs filed this action on March 27, 1984, pursuant to 42 U.S.C. Sec. 1983, alleging, among other things, that policies and practices of the Defendants denied Illinois parolees and mandatory supervised releasees (hereinafter parolees) individualized consideration for bail, in violation of the Eighth and Fourteenth Amendments of the United States Constitution.

This Court has jurisdiction over Plaintiffs' claims under 28 U.S.C. Sec[s]. 1331 and 1343.

The Court on December 4, 1984, certified a plaintiff class consisting of all parolees of the Adult Division of the Illinois Department of Corrections who are or will be arrested on new criminal charges and imprisoned pursuant to a parole violation warrant issued and executed by the Defendants.

On October 25, 1985, this Court entered a preliminary injunction order that required Defendants to provide individualized bail consideration for arrested parolees by a judicial officer. That preliminary injunction order was reversed and remanded by the Seventh Circuit Court of Appeals on February 25, 1988.

In order to effect an amicable settlement of this action, the parties having agreed, and this Court having found that the interests of the class will be adequately protected:

IT IS HEREBY ORDERED that Defendants, Lane and Klin-car, and their successors in office, shall cause procedures to be adopted, within sixty days of the entry of this Consent Decree, which shall reflect the following provisions.

1. Parolees shall be informed, when they receive a notice of charges alleging a parole violation, that they may request the withdrawal of the parole violation warrant pending a final parole revocation hearing, in the event probable cause is found at the preliminary parole revocation hearing.

2. If the hearing officer at a preliminary parole revocation hearing determines that there is probable cause to believe that the parolee has committed acts that constitute a violation of the terms of his parole or mandatory supervised release, the parolee may request that the hearing officer recommend to the Prisoner Review Board the withdrawal of the parole violation warrant pending a final parole revocation hearing.

3. The parolee shall be afforded an opportunity at the preliminary parole revocation hearing to provide reasons why withdrawal

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of the parole violation warrant pending the final parole revocation hearing is appropriate.

4. The hearing office [sic] shall transmit a recommendation concerning the withdrawal of the parole violation warrant to the Prisoner Review Board. Within ten business days of the preliminary parole revocation hearing, the Chairman of the Prisoner Review Board, or one member thereof, shall review the hearing officer's recommendation and render a final decision, whether the parole violation warrant should be withdrawn.

5. In determining whether the parole violation warrant should be withdrawn pending a final revocation hearing, the hearing officer and the Chairman of the Prisoner Review Board, or a member thereof, shall consider, among other factors, whether the parolee appears to present a risk of danger to any person or the community, whether it appears likely that the parolee may flee, or such other reasonable factors as the Prisoner Review Board deems appropriate.

6. The Department of Corrections, upon receipt of an order of the Prisoner Review Board to withdraw the parole violation warrant, shall promptly take all action necessary to withdraw the warrant.

7. If the parole violation warrant is withdrawn pending the final parole revocation hearing, the parolee shall remain subject to the conditions of his parole or mandatory supervised release. In addition, the Board may impose additional conditions of parole, or mandatory supervised release, pursuant to ILL. REV. STAT. Ch. 38, Sections 110-10 and 1003-3-7. Nothing in this Agreement shall prevent the Department or Board from issuing or reissuing a parole violation warrant based upon new information or acts constituting a violation of parole conditions.

8. The terms of this decree are applicable to Adult Division parolees charged with the commission of a new criminal offense and detained in a jail or other penal institution in Illinois pursuant to a parole violation warrant issued and executed by the Defendants.

9. On October 25, 1985, this Court entered a summary judgment order with respect to parolees of the Adult Division who are or will be arrested on new criminal charges and imprisoned in Cook County pursuant to a parole violation warrant issued and executed by defendants. This summary judgment order required defendants, *inter alia*, to provide timely final parole revocation hearings at which the parolee would have the opportunity to call

witnesses and to cross examine adverse witnesses, who have testified or presented evidence against the parolee absent good cause. It is, therefore, agreed with respect to the class defined in paragraph 9, that:

A. At the preliminary parole revocation hearing parolees shall have the opportunity to call witnesses in accordance with *Morrissey v. Brewer*, 92 S.Ct. 2593 (1972).

B. At the preliminary parole revocation hearing parolees shall have the opportunity to confront and cross examine adverse witnesses who have testified or presented evidence against the parolee, unless the hearing officer specifically finds good cause for not allowing confrontation.

C. Parolees shall be provided with a final parole revocation hearing by at least one member of the Prisoner Review Board within 120 days of the parolee's request for a final hearing.

10. The parties shall attempt to resolve informally any problems concerning compliance with the terms of this decree before bringing alleged violations to the attention of the Court. Isolated or inadvertent failures to comply with the terms of the decree shall not be deemed to be a violation of this Order.

11. This agreement shall not be construed as an admission of liability by the Defendants or their successors, liability having been expressly denied.

12. This agreement is contingent upon judicial approval of a proposed consent decree tendered by the parties in *Butler v. Lane*, #87 C 4542 (N.D. IL).

13. The named Plaintiffs, for themselves, their heirs, executors, administrators and assigns, hereby release and forever discharge the Defendants, the State of Illinois, Illinois Department of Corrections, Illinois Prisoner Review Board, their agents, employees and members in their individual and official capacities, their executors, administrators, successors and assigns, from any and all claims and demands, actions and causes of actions resulting or arising from the subject matter and allegations at issue in this case.

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