

JUDGMENT IN A CIVIL CASE

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND  
IN THE COURT OF COMMON PLEAS  
T.R., P.R., K.W. and A.M., on behalf of  
themselves and others similarly situated; and

CASE NUMBER: 2005-CP-40-2925  
South Carolina Department of Corrections and William R.

Protection and Advocacy for People with  
Disabilities, Inc.,  
PLAINTIFF(S)

Byars, Jr., as Agency Director of the South Carolina  
Department of Corrections  
DEFENDANT(S)

Submitted by: \_\_\_\_\_

Attorney for :  Plaintiff  Defendant or  Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  Rule 43(k), SCRPC (Settled);  Other Dismissed without prejudice
- ACTION STRICKEN (CHECK REASON):  Rule 40(j), SCRPC;  Bankruptcy;  Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other \_\_\_\_\_
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):  Affirmed;  Reversed;  Remanded;  Other \_\_\_\_\_

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order  ends  does not end the case.

Additional Information for the Clerk : See attached Order.

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$ _____
		\$ _____
		\$ _____

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge *Pe Hood* Judge Code 2164 Date July 6, 2016

For Clerk of Court Office Use Only

This judgment was entered on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and a copy mailed first class or placed in the appropriate attorney's box on this 11 day of July, 2016 to attorneys of record or to parties (when appearing pro se) as follows:

Dan Westbrook  
Stuart Andrews  
ATTORNEY(S) FOR THE PLAINTIFF(S)

Roy Lancy  
ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter \_\_\_\_\_

Clerk of Court *Jeanette W. McBride*

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

T.R., P.R., K.W. and A.M. , on behalf of  
themselves and others similarly situated;  
and Protection and Advocacy for People  
with Disabilities, Inc.,

Plaintiffs,

v.

South Carolina Department of Corrections  
and William R. Byars, Jr., as Agency  
Director of the South Carolina Department  
of Corrections.

Defendants.<sup>1</sup>

IN THE COURT OF COMMON PLEAS

C/A NO.: 2005-CP-40-2925  
Appellate Case No. 2014-001080

ORDER

RECORDED  
INDEXED  
C.C.P. 2016

2016 JUL -6 PM 3:44

RICHLAND  
FILED

This matter is before the Court pursuant to Plaintiffs T.R., P.R., K.W. and A.M on behalf of themselves and others similarly situated; and Protection and Advocacy for People with Disabilities, Inc. ("Plaintiffs") and the South Carolina Department of Corrections and William R. Byars, Jr., as Agency Director of the South Carolina Department of Corrections' ("Defendants") Joint Motion and Memorandum in support of approval of Settlement Agreement and Notice to Class Members. On June 1, 2016, Plaintiffs and Defendants filed the Joint Motion in the South Carolina Supreme Court.

<sup>1</sup> The Court notes that William R. Byars, as Agency Director of the South Carolina Department of Corrections who is named as a party to this action, has retired as Director of the South Carolina Department of Corrections. Pursuant to Rule 25(d)(1), SCRCP, when a public officer is a party to an action in his official capacity and during its pendency dies, resigns or otherwise ceases to hold office, the action does not abate and his successor is automatically substituted as a party. Further Rule, 25(d)(2) SCRCP provides that when a public officer sues or is sued in his official capacity, he may be described as a party by his official title rather than by name; but the Court may require his name to be added. As William R. Byars, Jr. has retired as Director of the South Carolina Department of Corrections, he is hereby removed as a party to this action and the Agency Director of the South Carolina Department of Corrections shall remain as a named party.

By Order dated June 15, 2016, the South Carolina Supreme Court remanded this matter to this Court for consideration of the request for approval of the settlement agreement, to include a determination as to the sufficiency of the proposed class notice. On July 5, 2016, this Court conducted a hearing regarding the sufficiency of the proposed class notice. The Court further has reviewed the materials submitted by Plaintiffs and Defendants regarding this matter. For the reasons set forth in this Order, the proposed class notice and method of notification to the class members is approved subject to the terms of this Order.

Plaintiffs initiated this case as a class action on June 20, 2005, on behalf of seriously mentally ill inmates incarcerated at the South Carolina Department of Corrections (the "Class Members"). Plaintiffs' action did not seek monetary damages, fees or costs, but only declaratory and injunctive relief. Plaintiffs alleged that the South Carolina Department of Corrections' mental health program was systemically flawed in violation of Article I, Section 15 of the South Carolina Constitution. Defendants denied Plaintiffs' allegations. The case was designated as complex and assigned to The Honorable J. Michael Baxley. Following a six-week trial held in 2012, Judge Baxley entered an Order dated January 8, 2014, in favor of Plaintiffs. Defendants filed a timely appeal.

On March 10, 2014, the parties entered into formal mediation, retaining The Honorable William L. Howard as mediator. For over two years the parties have participated in numerous mediation sessions. During this period, at the request of the parties, the South Carolina Supreme Court has stayed the appeal process. On May 31,

2016, the mediation was successfully concluded with the execution of a settlement agreement, pending approval of the court and notice to Class Members.

Rule 23(c), SCRCP provides as follows: "A class action shall not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs."

This Court has reviewed the proposed notice to the Class Members, a copy of which is attached as Exhibit A hereto (the "Notice"), and method of providing the Notice to the Class Members. The Notice provides an overview of the litigation, sufficiently describes the methods by which Class Members can obtain a copy of the settlement agreement and the method for Class Members to submit comments to this Court. Pursuant to the procedures proposed to the Court by counsel for Plaintiffs and Defendants, the South Carolina Department of Corrections shall post the Notice on a bulletin board or other area to which Class Members have access in each wing of each South Carolina Department of Corrections' correctional facility. The South Carolina Department of Corrections shall provide all Class Members in administrative segregation with a copy of the Notice. If any Class Member desires to read the settlement agreement, the Class Member can review a copy of the settlement agreement in the applicable institution's library. If a Class Member is not eligible to go to the institution's library, then any such Class Member may request a copy of the proposed settlement agreement by writing to the Assistant Warden for his or her institution. If a Class Member cannot read or has English language limitations and makes a request to his or her Assistant Warden, then the South Carolina Department of Corrections shall provide such Class

Members with readers, audio recordings or translation services, as applicable, regarding the notice and settlement agreement. The South Carolina Department of Corrections has confirmed with this Court that the South Carolina Department of Corrections can have the Notice posted within one (1) week of the execution of this Order. The Court further notes that the Notice has been provided to Joy C. Jay, Executive Director of the South Carolina Chapter of Mental Health of America and Guardian-Ad-Litem for the Class Members.

This Court finds that the Notice, procedures for providing the Notice to the Class Members, and the method of making the settlement agreement available to Class Members for review and comment adequately and sufficiently provides notice of the settlement agreement to the Class Members. The South Carolina Department of Corrections shall have the Notice posted pursuant to the procedures set forth above on or before July 13, 2016. Class Members shall have thirty (30) days to provide comments to the settlement agreement by mail postmarked on or before August 12, 2016. During the thirty (30) day comment period, the Court shall provide to counsel for Plaintiffs and Defendants the comments submitted to the Court. Counsel for Plaintiffs and Defendants shall meet or consult during such thirty (30) day period so as to attempt to address any provided comments. This Court shall conduct further proceedings on August 19, 2016 at 2:00 p.m. so as to address any outstanding matters regarding comments submitted to the Court and other matters pertaining to the review and approval of the proposed settlement agreement.

## EXHIBIT A

### ***NOTICE TO THE MEMBERS OF THE MENTAL HEALTH LITIGATION CLASS ABOUT PROPOSED SETTLEMENT***

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If you are in the custody of the South Carolina Department of Corrections ("SCDC") and have a serious mental illness, you are a member of the Plaintiff class in the lawsuit *T.R. v. South Carolina Department of Corrections*. The case seeks improvements in mental health care and in the treatment of inmates with mental illness.

This case began in 2005. It was tried in 2012. The judge signed an order in 2014. The order ruled for the Plaintiff class and Protection and Advocacy for People with Disabilities, Inc. The Defendants appealed. Since the appeal, the lawyers for both sides have been trying to reach an agreement to improve mental health services.

Lawyers for both sides have now reached an agreement to settle the case. They have asked the court to approve the settlement. The settlement will set requirements for how SCDC will operate the mental health program. The settlement does not award money to members of the class. The Plaintiffs asked the court to require SCDC to improve mental health services, but did not ask for money.

If the settlement is approved by the court, mental health experts agreed to by the lawyers on both sides will inspect SCDC facilities. They will talk with inmates and staff. They will also look at papers to see what SCDC is doing to improve mental health services.

When SCDC has met a requirement for 18 months, the review of that requirement will end. The case will be dismissed when they have met all the requirements for 18 months.

You may read the full proposed settlement agreement by visiting the library in your institution or by requesting access from your Unit Manager or control room. If you are not eligible to go to the library, you may write to the Assistant Warden asking for these papers. State your name, number, and cell number. You can put your request in the outgoing mail. The papers will be delivered to you. You will have 72 hours to review them before you must give them back to staff. If necessary, SCDC will arrange for someone to read the settlement agreement and notice to you.

You have the right to let the court know in writing whether you think the settlement should be approved or not. **All comments must be postmarked by August 12, 2016.** Comments must be mailed to:

Jennifer Smith  
Administrative Assistant  
P.O. Box 192  
1701 Main Street, Ste. 222  
Columbia, SC 29202

**You must write “TR v. SCDC, No. 2005-CP-40-02925” on the first page of your comment.** For further information, you can contact the lawyers for the Plaintiff class at:

Mental Health Settlement  
Nelson Mullins Riley & Scarborough LLP  
PO Box 11070  
Columbia, SC 29211