



State of South Carolina
The Circuit Court of the Fifth Judicial Circuit

Robert E. Hood
Judge

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September 29, 2016

South Carolina Supreme Court
Attn: Dan Shearouse
1231 Gervais Street
Columbia, SC 29201

RECEIVED

SEP 29 2016

S.C. SUPREME COURT

Re: 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., v. SC Department of Corrections and Agency Director of the SC Department of Corrections.

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

Dear Mr. Shearouse:

Attached please find the official approval of the settlement in the above captioned case. Additionally, please see the attached order for more information regarding the approval of the settlement and recommendation to the Supreme Court.

A handwritten signature in cursive script that reads "Re Hood".

The Honorable Robert E. Hood
Fifth Judicial Circuit Judge

Columbis, SC

September 29, 2016

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.,¹

Plaintiffs,

v.

South Carolina Department of Corrections and Agency Director of the South Carolina Department of Corrections,

Defendants.

IN THE COURT OF COMMON PLEAS

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

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SEP 29 2016

S.C. SUPREME COURT

ORDER

JOHNETTE W. MORRIS
C.C.P. & E.S.
2016 SEP 29 PM 12:19
MICHAEL ALLEN
FILED

This matter is before the Court pursuant to Plaintiffs T.R., P.R., and K.W. 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 Agency Director of the South Carolina Department of Corrections (“Defendants”) Joint Motion and Memorandum in support of approval of a Settlement Agreement and Notice to Class Members. On June 1, 2016, Plaintiffs and Defendants (collectively the “Parties”) filed the Joint Motion in the South Carolina Supreme Court. 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. This Court conducted hearings on this matter on July 5, 2016 and September 12, 2016. This Court

¹ The Court finds that P.R., K.W. and A.M. are no longer incarcerated at the South Carolina Department of Corrections and are removed as class representatives with T.R. being the only remaining class representative.

further has reviewed the materials submitted by the Parties and correspondence submitted by seriously mentally ill inmates incarcerated at the South Carolina Department of Corrections (“the “Class Members”). For the reasons set forth in this Order, the Court: (i) determines that the Class Members have received sufficient notice of the Settlement Agreement; (ii) approves the Settlement Agreement; and (iii) recommends that the South Carolina Supreme Court approve the Settlement Agreement and dispose of this suit according to the recommendations of this Order.

Plaintiffs initiated this case as a class action on June 20, 2005. Plaintiffs’ action did not seek monetary damages, fees or costs, but only declaratory and injunctive relief. Plaintiffs alleged that the Defendants’ 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 (the “Order”). 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 participated in numerous mediation sessions. During this period, at the request of the Parties, the South Carolina Supreme Court 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 the Class Members.

By Order dated July 11, 2016, this Court approved the form of notice of the Settlement Agreement that was to be provided to the Class Members, the method of

providing such notice, and the method of providing a copy of the Settlement Agreement to any Class Members. Pursuant to the notice, Class Members were given an initial deadline of August 12, 2016 to submit comments regarding the Settlement Agreement. During the pendency of the comment period, the Parties discovered that a full set of policies, which are part of the Settlement Agreement, were not made available to the Class Members. A subsequent notice was posted in the same manner as the initial notice, and Class Members were allowed until September 7, 2016 to submit additional comments regarding the Settlement Agreement.

As a result of the Defendants following the procedures set forth above, this Court received letters from seventy-two (72) inmates regarding the Settlement Agreement. This Court and counsel for the Parties have reviewed all of the letters. The submitted letters can be divided into three general categories. First, some inmates requested that the Court approve the Settlement Agreement. The second category of letters expressed no opinion whether the settlement should be approved. The third category, which comprised the majority of letters submitted, disapproved of the settlement, primarily on grounds the conditions and treatment of mentally ill inmates in South Carolina prisons remains inadequate.

Rule 23(c), SCRCP states that “[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 finds that the Defendants complied with the notice procedures as directed by this Court. The notice to the Class Members was adequately posted in all of

Defendants' Institutions. Also, this Court finds that the Defendants made the Settlement Agreement available to the Class Members with sufficient time for the Class Members to review and provide comments. The Court further finds that the procedures used were adequate and that the Class Members had the opportunity to review, and comment upon, the Settlement Agreement. As such, this Court hereby determines that the notice and procedures for providing the notice to the Class Members complied with the requirements of Rule 23(c), SCRCF, and with this Court's previous order.

This Court further finds that the Settlement Agreement is in the best interests of the Class Members. The Settlement Agreement sets forth a comprehensive plan under the terms of which substantial improvements to the South Carolina Department of Corrections' mental health care systems may be implemented. These changes affect how mentally ill inmates shall be treated from the moment an inmate enters into the South Carolina Department of Corrections' facilities through the inmate's entire period of incarceration. The cornerstones of the Settlement Agreement are a detailed multi-year Remedial Plan and an Implementation Panel. The Remedial Plan sets forth, in detail, new South Carolina Department of Corrections' mental health policies, a hiring plan for new mental health professionals, a construction and renovation plan for improving the South Carolina Department of Corrections' mental health facilities, an electronic medical records plan, and a multi-year budget designed to fund the Remedial Plan.

The Settlement Agreement also requires an Implementation Panel to review and assess the South Carolina Department of Corrections' progress toward meeting the Implementation Goal. Finally, the Settlement Agreement provides that the Mediator shall remain part of the implementation process to monitor and facilitate the

implementation. Throughout this process, detailed reports shall be developed by the Implementation Panel and Mediator which will document the South Carolina Department of Corrections' progress toward the implementation of the Remedial Plan.

This Court finds that the Settlement Agreement is in the best interests of the Class Members. The detailed nature of the Settlement Agreement, including the policies to be implemented by the Defendants, is designed to improve mental health care to be delivered by the South Carolina Department of Corrections. The detailed plan for implementation of the Remedial Plan is to be reviewed and assessed by an expert Implementation Panel. Both the Implementation Panel and the Mediator shall produce reports regarding the Defendants' compliance with the Remedial Plan. This process sets forth a method by which the Defendants will be held accountable for completing the implementation of the Remedial Plan.

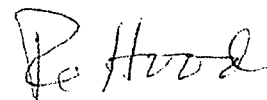
For the reasons set forth above, this Court finds and orders as follows:

1. The Defendants have provided adequate and sufficient notice to the Class Members of the Settlement Agreement; and
2. This Court hereby approves the Settlement Agreement.

IT IS SO ORDERED.

Ce/WMB/D, South Carolina

September 29, 2016



The Honorable Robert E. Hood
Fifth Judicial Circuit Judge

CERTIFIED TRUE COPY
OF ORIGINAL FILED
Jeannette W. McBride
S.C.P. & G.S.
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

CASE NUMBER: 2005-CP-40-2925

T.R., P.R., K.W. and A.M., et al.

SC Department of Corrections and
Agency Director of SC Department of
Corrections

PLAINTIFF(S)

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 THE 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 : PLEASE 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 Kethrzel Judge Code 2164 Date 9/29/16

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 _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court _____

CERTIFIED TRUE COPY
OF ORIGINAL FILED
Janette W. [Signature]
C.C.P. & G.S.
RICHLAND COUNTY
SOUTH CAROLINA