

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

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JEFFERY PRESLEY, et al.

Plaintiffs

v.

NO. 4:05CV148-M-D

CHRISTOPHER EPPS, et al.

Defendants

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**CONSENT DECREE**

**Background**

Plaintiffs are members of a class of approximately one thousand prisoners who are confined in Unit 32 of Mississippi State Penitentiary (MSP), Parchman, Mississippi. They filed suit against the Defendants, officials of the Mississippi Department of Corrections, on June 22, 2005, requesting injunctive relief under the Eighth Amendment, and moved for class certification. The terms of this Consent Decree are intended to address concerns set forth in the allegations of the Complaint. The Parties met at an initial settlement conference on November 22, 2005 in the Federal Courthouse in Aberdeen, Mississippi. The Parties, in the interests of judicial economy and the rational use of the Parties' limited resources, agree to a partial settlement of the litigation on the following terms:

**Stipulations and Settlement Terms**

- (1) Defendants shall ensure that the cell to which a prisoner is moved is clean prior to the move. Adequate cleaning supplies and equipment shall be provided prisoners in order that they may clean their cells at least weekly or more frequently as may be required to provide for basic sanitation and hygiene.

- (2) During the months of May through September, the Defendants will ensure that each cell throughout Unit 32 is equipped with a fan. During those months, a 32-ounce cup of ice will be made available to each prisoner in Unit 32 three times a day. Defendants will ensure that each prisoner in Unit 32 may take one shower a day, six days per week, year round.
- (3) Defendants shall implement and maintain an effective mosquito eradication and pest control program.
- (4) Defendants shall eradicate the problem of “ping-pong” toilets in Unit 32.
- (5) Defendants shall provide lighting in each cell equal to 20 foot-candles.
- (6) Defendants shall comply, and shall ensure that their medical services provider complies, with the mandatory ACA Standards for Adult Correctional Institutions (4<sup>th</sup> Ed.) and with the essential National Commission on Correctional Healthcare (NCCHC) Standards for Health Services in Prison (2003); and shall be fully accredited by these organizations at all times. To effectuate the goals of this paragraph, Plaintiffs’ expert will periodically audit the provision of care. Defendants will require their medical services provider to cooperate fully with these audits. Within 30 working days of the completion of each audit, Plaintiffs will furnish Defendants and their medical care provider with a report identifying deficiencies, if any. Within 45 working days after receipt of that report, Defendants will submit a written plan to address any such deficiencies. In addition:
  - (a) Defendants shall ensure compliance with ACA Standard 4-4345 on medical co-payment fees;
  - (b) Defendants shall provide a chronic disease program that adequately identifies, monitors and treats patients with chronic diseases, consistent with NCCHC

Standard P-G-02 and ACA Standard 4-4359;

(c) Defendants shall ensure compliance with NCCHC Standard P-H-01 and ACA Standard 4-4413 and with community standards on medical record-keeping;

(d) Defendants shall provide off-site medical consultation, hospitalization, and specialty care for patients in need of those services, consistent with NCCHC Standard P-D-05 and ACA Standard 4-4348.

- (7) Each prisoner confined to Unit 32 for at least a year shall be given a comprehensive mental health examination in private, unless the prisoner refuses to be restrained consistent with MDOC policy and procedure, in which case the prisoner shall be examined in his cell. These comprehensive examinations shall be conducted on a yearly basis. Those prisoners diagnosed with psychosis and severe mental health illnesses shall be housed separately and apart from all other prisoners and shall be housed appropriately in light of their individual treatment plans consistent with NCCHC Standard P-G-01 [Special Needs Treatment Plans]. The medication levels of all prisoners receiving psychotropic medications shall be monitored and assessed in accordance with appropriate medical standards. All prisoners receiving mental health counseling or evaluation shall meet with the mental health professionals in a private setting.
- (8) Defendants shall take appropriate measures to prevent excessive risk to prisoners of infection with multi-drug resistant Staphylococcus Aureus (MRSA), consistent with ACA guidelines and essential NCCHC Standards.
- (9) Defendants shall ensure that food trays are properly cleaned and sanitized prior to food service, that food portions are adequate, and that food is served at appropriate and safe temperatures.
- (10) Defendants shall allow prisoners out-of-cell exercise consistent with the ACA Standards for

Adult Correctional Institutions. The Defendants agree to have new exercise pens completed no later than July 1, 2006.

- (11) Defendants shall take reasonable measures to ensure that all incidents of major force by correctional staff against prisoners are thoroughly investigated and documented and that the use of excessive force is not tolerated. The Parties agree to work together in good faith to prepare a written plan to effectuate the goals of this paragraph, and to present the agreed-upon plan to the Court for approval.
- (12) In assigning prisoners to Unit 32 from any other housing assignment in MDOC, Defendants shall provide the prisoner with prior notice of the factual bases for the assignment to Unit 32, a hearing with the opportunity to appear in person and to submit a written statement to the decision-maker, a statement of the reasons for any assignment to Unit 32 following hearing, and an opportunity to appeal. Prisoners retained in Unit 32 are entitled to at least a semi-annual review of their retention there, with the same rights of notice, opportunity to be heard, and appeal. The Parties agree to work together in good faith to prepare a written plan to effectuate the goals of this paragraph, and to present the agreed-upon plan to the Court for approval.
- (13) Defendants will formulate and implement a plan, clearly communicated to prisoners, whereby all prisoners who are assigned to Unit 32 and not sentenced to death may, through good behavior and a step-down system, earn their way to less restrictive housing. The Parties agree to work together to prepare a written plan to effectuate the goals of this paragraph, and to present the agreed-upon plan to the Court for approval.
- (14) The Parties agree that the stipulated remedies set forth in this Consent Decree are narrowly

present the agreed-upon plan to the Court for approval.

- (14) The Parties agree that the stipulated remedies set forth in this Consent Decree are narrowly drawn, extend no further than necessary to correct the violation of Federal rights, and are the least intrusive means necessary to correct the violation of the Federal rights.
- (15) The Parties agree that the Court shall retain jurisdiction to enforce the provisions of this Consent Decree.
- (16) Plaintiffs' counsel and experts, with proper advance notice, shall have reasonable access to Unit 32, the MSP hospital, records, prisoners and staff to monitor for compliance with the terms of this Consent Decree.
- (17) Prior to the filing of any motion challenging the adequacy of compliance with this Consent Decree, Plaintiffs shall first notify counsel for Defendants and attempt to negotiate an informal resolution without involving the Court.
- (18) Reasonable attorney fees, expert fees, and costs directly incurred in enforcing the terms of this Consent Decree may be awarded by the Court.
- (19) The Parties stipulate to the certification of the class of all prisoners who are now or will in the future be incarcerated in Unit 32.
- (20) The Parties stipulate that nothing in this Consent Decree constitutes either an admission of liability or any evidence of liability with respect to individual suits for damages.

By: Margaret Welter  
Counsel for Plaintiffs

Date: 2/15/06

By: Paul White  
Counsel for Defendants

Date: 2/20/06

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JERRY A. DAVIS  
UNITED STATES MAGISTRATE JUDGE