

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

LASHAWN JONES, KENT)
ANDERSON, STEVEN DOMINICK,)
ANTHONY GIOUSTAVIA, JIMMIE)
JENKINS, GREG JOURNEE,)
RICHARD LANFORD, LEONARD)
LEWIS, EUELL SYLVESTER and)
MARK WALKER, on behalf of)
themselves and all others similarly)
situated,)
)
and)
)
UNITED STATES OF AMERICA)
)
Plaintiffs,)
)
v.)
)
MARLIN GUSMAN,)
Sheriff, Orleans Parish and)
)
CITY OF NEW ORLEANS,)
)
Defendants.)

Civil Action No. 2:12-cv-00859
Section I
Judge Lance M. Africk
Magistrate Judge Shushan

JOINT NOTICE ON STATUS OF SETTLEMENT NEGOTIATIONS

In preparation for the Court’s status conference on Monday, October 15, 2012 and in response to the Court’s minute order directing the parties to file a proposed interim consent decree by the same date, the Plaintiff Class and the United States of America (collectively, “the Plaintiffs”) jointly file this Notice to update the Court on the status of settlement negotiations between the Plaintiffs and Defendants Orleans Parish Sheriff (“Sheriff”) and City of New Orleans (“City”) (collectively, the “Defendants”). Plaintiffs also take this opportunity to update the Court on continuing, unaddressed deficiencies that subject prisoners to unconstitutional living conditions at the Orleans Parish Prison (“OPP”), which underscore the urgency of this

case reaching resolution.

I. Status of Settlement Negotiations

The Plaintiffs and Defendants have participated in extensive settlement discussions and have agreed on the substantive provisions that should be included in the proposed Settlement Agreement. The proposed Settlement Agreement consists of 12 sections and contains comprehensive provisions on protection from harm from physical and sexual assaults, suicide prevention, mental health care, medical care, sanitation, training, quality assurance/performance improvement, fire and environmental hazard safety, limited English proficiency services, and improved policies, procedures, and monitoring measures. These comprehensive provisions directly coincide with the particular constitutional and Title VI violations that Plaintiffs allege in the Class Complaint and the Complaint in Intervention. Through negotiations, the parties have been able to reach agreement on all of the substantive provisions in the proposed Settlement Agreement.

Despite the parties' successful efforts negotiating every other aspect of the Settlement Agreement, Defendants have been unable to reach an appropriate compromise regarding the interim amount of funding that the City should provide to the Sheriff to address currently deficient conditions and begin implementing the Settlement Agreement in accordance with its timelines, without further delay. This interim funding would only be in effect until completion of a staffing analysis that will provide the basis for the final funding amount. Once the staffing analyses are completed and the final budget amount is determined, any discrepancies between the temporary and updated budget would be reconciled through a payment to or from the City.

The Plaintiffs have suggested alternatives to encourage a compromise, including proposing a compromise amount or requesting that the Court decide; still the Defendants are unable to reach an amicable resolution. We therefore are at an impasse, and it appears that this remaining issue inhibiting settlement is the interim funding provision.

II. Continuing Concerns Regarding Conditions of Confinement

The Court has indicated that it shares Plaintiffs' serious concerns with unaddressed dangerous conditions at the jail, underscoring the need for an expeditious settlement. As the Plaintiffs and Defendants continue to negotiate the terms of an agreement to address the abusive and unconstitutional conditions of confinement raised in the Class Complaint (Class Complaint, ECF No. 1.) and the Complaint in Intervention (Complaint in Intervention, ECF No.70.), the Plaintiffs continue to receive alarming complaints regarding current conditions at OPP.

During the past seven days, the Plaintiffs have received complaints related to staff-on-prisoner violence, prisoner-on-prisoner violence, inadequate prisoner supervision, and complaints of knives and weapons throughout the facility. Prisoners continue to complain about the rampant levels of violence at OPP and the inadequate levels of staffing that exacerbates these problems at the Jail. Plaintiffs attach eight declarations documenting recent violence in the jail, all gathered today. John Doe was raped. Suicidal prisoners have attempted to eat tile and cleaning chemicals, because they are not receiving medicine. Men report being stabbed in the face and having their heads split open. 70 year old prisoner Terry Smith was punched by a prisoner known to have a history of violence. Smith's head was split open; he can no longer walk or communicate. If he does not recover, Mr. Smith will have essentially lost his life to the violence inside of OPP.

The Plaintiffs fear that if the continued violence is not expediently addressed and the staffing levels remain at the current level, another disaster is sure to occur at OPP. As such, the Plaintiffs respectfully request that the Court schedule an expedited hearing to take limited testimony from the Plaintiffs and Defendants and set an interim funding amount in the Settlement Agreement.

Respectfully submitted this 12th day of October 2012,

FOR THE PLAINTIFF CLASS:

/s/ Katie M. Schwartzmann
KATIE SCHWARTZMANN
ELIZABETH CUMMING
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FOR THE UNITED STATES:

/s/ Laura L. Coon
JONATHAN M. SMITH, Chief
LAURA L. COON, Special Counsel
COREY M. SANDERS
SILVIA J. DOMINGUEZ
KERRY KRENTLER DEAN
Attorneys
United States Department of Justice
Civil Rights Division
Special Litigation Section
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
(202) 514-6255

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed using the Court's CM/ECF system, which automatically provides notice to all counsel of record. Additionally, a copy of the Notice has been sent, via electronic mail, to counsel for the City of New Orleans.

/s/ Katie M. Schwartzmann
Katie M. Schwartzmann

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

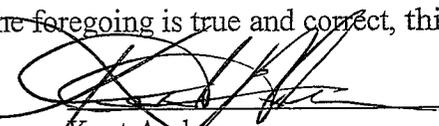
DECLARATION

STATE OF LOUISIANA)
PARISH OF ORLEANS)

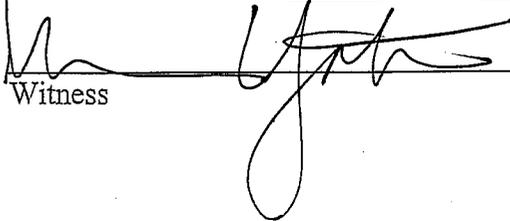
I, Kent Anderson, do hereby declare:

1. I am currently a pre-trial detainee incarcerated in Orleans Parish Prison. I have been locked up in different buildings since my arrest. A few months ago I was in Templeman Phase V A-3, which is a mental health tier.
2. There was an old guy on the tier with me. He was about 70 years old and he took mental health medicine. Around the middle of June, Terry was walking around the tier asking for coffee when this young guy punched Terry in the face. Terry fell and hit the back of his head on a metal table and then on the ground.
3. I started beating on a window to get help. A deputy just happened to be passing and saw me. I helped carry Terry to the medical office where nurses called an ambulance. I remember Terry just kept saying, "Oh my god, help me. Help me."
4. The next day SOD came on the tier and announced that Terry was "fighting for his life." The young guy who hurt Terry had hurt other people really badly before, but deputies never took him off the mental health tier
5. Terry never came back to the tier. I don't know what happened to him.

I declare under penalty of perjury that the foregoing is true and correct, this 12 day of October, 2012.


Kent Anderson

Sworn before me this 12 day of October, 2012.


Witness



IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

DECLARATION

STATE OF LOUISIANA)
PARISH OF ORLEANS)

I, Maggie Yates, do hereby declare:

1. I am currently employed as an advocate with the Southern Poverty Law Center. I have worked at SPLC since November 2010.
2. On June 25, 2012, an SPLC client told me about a young prisoner who jumped an elderly man in Templeman Phase V earlier in the month. Others on the tier gave me his name, Terry Smith.
3. On June 27, 2012 I attempted to visit Terry Smith at Temple Phase V, however a ranking officer told me Terry was currently at the hospital. The officer called Chief Weaver who granted me access to visit Terry.
4. I visited Terry in LSU Interim Medical Center later that afternoon. He was receiving treatment in the ICU. Terry had a catheter, but was not intubated. The right side of his forehead was bandaged and I could see 2 metal staples near the bandage, at his hairline.
5. I'm not sure if Terry was sleeping or unconscious when I arrived. I held and then squeezed his hand, but he didn't respond. I talked to him as well, but he still didn't wake up.
6. A nurse directed me to Terry's doctor as I was leaving his room. He told me that Terry would be in the hospital for a few more days to a week, depending on his "mental state." When I asked for clarification the doctor said that he is depressed and having a hard time "waking up." He added that Terry suffered a "head injury" and required an intensive rehabilitation program that "the jail couldn't provide," upon his hospital discharge.
7. On October 11, 2012, I traveled to Elayn Hunt Correctional to visit Terry, where he is currently held in a medical unit. A nurse wheeled Terry in to meet with me in a dayroom. The nurse explained that Terry can't walk "even though he thinks he can, which is why he is strapped into the chair." Terry has lost a significant amount of weight since I visited him in June, his cheeks are gaunt and he looks in poor health.
8. I tried to explain to Terry that I was worried about him and wanted to make sure he was OK. I realized though, that he either couldn't understand me, or was unable

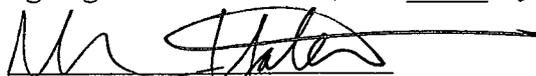
respond. I asked him simple yes or no questions. He grunted at some and said yes to one of my questions. At one point he fell asleep.

9. Terry also had limited use of his hands and arms. I tried to give him a business card, but he flailed his arms, as if he didn't have motor control.

10. As I was leaving the building a deputy asked if I was able to get him to talk. She told me that he can only say simple words, like yes or no.

11. I don't know if Terry has family or if they have been notified of his injury.

I declare under penalty of perjury that the foregoing is true and correct, this 12 day of October, 2012.


Maggie Yates

Sworn before me this 12 day of Oct, 2012.


Witness

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

DECLARATION

STATE OF LOUISIANA)
PARISH OF ORLEANS)

I, John Doe, do hereby declare:

1. I am currently a pre-trial detainee incarcerated in Conchetta in Orleans Parish Prison. I was arrested in September on simple burglary charges.
2. When I came to jail, I was detoxing off of drugs. I was really sick for the first two weeks.
3. After I spent a day or so in the Intake and Processing Center, guards put me in a holding tank in Old Parish Prison. Then they put me on a regular tier in OPP even though I have a low charge and a low bond.
4. Guys told me that I had to get off the tier because I didn't have high enough charges. I didn't know what they meant, so I just went to my cell. I figured out what they meant, though. Some of them raped me at knifepoint and then I ran off the tier.
5. I reported the attack to deputies, rank and SOD even though my attackers said they would find and kill me if I told anyone. No one ever brought me to medical or gave me STD testing.
6. I am scared, lonely and afraid for my life.

I declare under penalty of perjury that the foregoing is true and correct, this 12 day of October, 2012.

X John Doe
John Doe

Sworn before me this 12 day of October, 2012.

[Signature]
Witness

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

DECLARATION

STATE OF LOUISIANA)
PARISH OF ORLEANS)

I, Caresses Perique, do hereby declare:

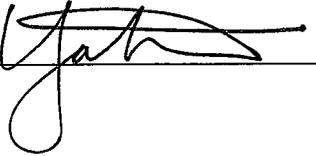
1. I am currently incarcerated in Templeman Phase V on the suicide watch tier. I was recently sentenced on drug charges after waiting in jail for almost a year.
2. I am a mental health prisoner, diagnosed with schizophrenia. I have been taking medicine for it since I was a kid.
3. The judge sent me to East Louisiana Mental Health Hospital at one point to get mental health help. When I came back to Orleans Parish Prison, I didn't always get my medicine, though. For the past couple of months I haven't received any medicine at all. The psychiatrist tells me I have to come off suicide watch in order to get my medication.
4. I have tried to kill myself multiple times in jail. I have eaten tile, saved up my medicine and overdosed, and drank cleaning chemicals to try and hurt myself. Sometimes I told deputies that I was going to hurt myself, but they never did anything. They just let me try. Some of them told me, "Go on, and kill yourself."
5. I have seen lots of other really sick guys on the suicide tier not get their medicine. Some have also tried to hurt themselves, other times the deputies hurt them. I have witnessed deputies along with ranking officers beat and choke guys on the mental health tiers.
6. There is a guy on the tier right now who keeps trying to kill himself by ramming his head into the wall. Deputies just watch. Sometimes they yell at him to stop. But they never do anything else.
7. It is not right what is going on back here. We need our medicine and we need to be safe. I have not felt safe the whole time I have been in this jail.

I declare under penalty of perjury that the foregoing is true and correct, this 12 day of October, 2012.

Caresses Perique
Caresses Perique

Sworn before me this 12 day of October 2012.


Witness



IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

DECLARATION

STATE OF LOUISIANA)
PARISH OF ORLEANS)

I, Nolan Morris, do hereby declare:

1. I am currently a pre-trial detainee incarcerated in Templeman Phase V in Orleans Parish Prison.
2. A few weeks ago, I was choked by a ranking officer until I was disoriented because I refused to take off my jumper while I was on suicide watch.
3. I have witnessed instances of violence between inmates, including stabbings and beatings.
4. I have also witnessed instances of sexual abuse occurring between inmates during my time in jail.
5. I was taking medication for my bi-polar disorder before I came to jail, which I reported to the jail at booking. I have yet to receive my medication in the facility.
6. I am afraid for my safety. Deputies hurt me and ranking officers have failed to protect me.

I declare under penalty of perjury that the foregoing is true and correct, this 12 day of October, 2012.

Nolan Morris
Nolan Morris

Sworn before me this 12 day of October, 2012.

[Signature]
Witness

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

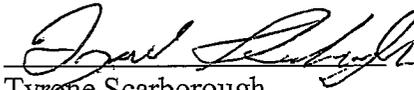
DECLARATION

STATE OF LOUISIANA)
PARISH OF ORLEANS)

I, Tyrone Scarborough, do hereby declare:

1. I am currently a pre-trial detainee incarcerated in Old Parish Prison in Orleans parish.
2. I have been in jail since January, and have been attacked many times since I came to jail. I think I get attacked because there are gangs in here, and I am not a member of a gang.
3. A few weeks ago, I got stabbed by a guy multiple times on A-4 tier. When the guy went to stab me, I put my hands up to protect myself. As a result, I got stabbed in the hands and in my arm with a rusty knife.
4. After I was stabbed, some of the guys on the tier jumped on me. There was no deputy around, because he had gone to take another prisoner to sick call. I was beaten for a long time.
5. When a deputy finally came to the tier I ran off.
6. The deputies put me in a holding cell downstairs for a few hours, then brought me to the medical department.
7. My face is still numb from this attack, and I cannot bite down with my jaw. I am seeing double out of my left eye.
8. I have been jumped multiple times since coming to this jail. There are fights constantly, and you can get jumped for your medication, for your commissary items, or for no reason.
9. Last week when the DOC came to inspect the jail, the deputies were monitoring the tiers, they did a shakedown for weapons, and staggered the transport of people. If they did this stuff all the time, we wouldn't have problems.

I declare under penalty of perjury that the foregoing is true and correct, this 12 day of October, 2012.


Tyrone Scarborough

Sworn before me this 12 day of oct, 2012.

K. J. [Signature]
Witness

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

DECLARACION

STATE OF LOUISIANA)
PARISH OF ORLEANS)

a

Yo, Christian Placios, declaro lo siguiente bajo pena de perjurio:

CP

1. Yo estoy encarcelado en Conchetta en la parroquia de Orleans esperando un juicio.
2. Español es mi primer idioma. Mi Ingles es muy limitado.
3. Hace dos semanas, al menos dos prisioneros empezaron a preguntarme si yo quería pelear. Yo le dije al agente de seguridad que yo estaba preocupado por mi seguridad, pero el casi no me escuchó.
4. Más tarde esta misma noche, yo estaba jugando domino en mi piso. Los dos prisioneros que me habían amenazado en la mañana, me acercaron desde atrás. Me pegaron la cabeza y me empujaron al piso. Patearon mi cuerpo, incluyendo mi cabeza y mi cuello. Mi cara estaba sangrando y yo tenía moratones por todo el cuerpo.
5. Yo salí corriendo y toque el timbre de la seguridad. La seguridad me abrió la puerta y me dejó salir.
6. Me llevaron al cuartito de visitación donde yo estuve sentado por mucho tiempo. Eventualmente, me llevaron al médico. La enfermera no hablaba español, entonces no pude comunicarme con ella sobre donde me estaba doliendo. Luego, me pusieron en custodia protectora.
7. Yo nunca he recibido papeles de la cárcel en español. Yo no sé cómo pedir ayuda médica o meter una queja. La mayoría de los agentes de seguridad no hablan español.

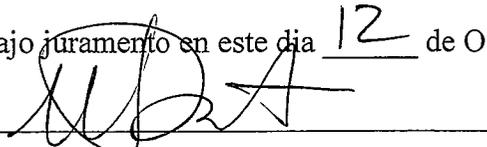
Declaro bajo pena de perjurio en este día 12 de Octubre del 2012, que lo anterior es verdadero y correcto.

Christian Placios
Christian Placios

a

Dado bajo juramento en este día 12 de Octubre del 2012.

Testigo



**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA**

DECLARATION

STATE OF LOUISIANA)
PARISH OF ORLEANS)

I, Christian Palacios, hereby make this declaration under penalty of perjury:

1. I'm imprisoned in Conchetta in Orleans Parish pending trial.
2. Spanish is my first language. My English is very limited.
3. Two weeks ago, at least two prisoners started asking me if I wanted to fight. I told the security officer that I was worried about my safety, but he hardly paid attention.
4. Later that night, I was playing dominoes on my floor. The two prisoners, who had threatened me in the morning, approached me from behind. They hit my head and pushed me to the floor. They kicked my body, including my head and my neck. My face was bleeding and I had bruises all over my body.
5. I ran out and rang the security bell. Security opened the door and let me out.
6. They took me to the small visitation room where I sat for a long time. Eventually, they took me to the doctor. The nurse did not speak Spanish, so I could not tell her where I was hurting. Then I was put in protective custody.
7. I have never received jail papers in Spanish. I do not know how to ask for medical help or submit a complaint. Most security officers do not speak Spanish.

I declare under penalty of perjury on this ____ day of October 2012, that the foregoing is true and correct.

Christian Palacios

Given under oath on this ____ day of October 2012.

(see spanish version)
Witness

Translator's Declaration

I, Izabel Blankenship, declare under penalty of perjury that I am fluent in Spanish and in English.

I certify that I translated the attached document from English to Spanish:

Declaration of Christian Palacios

And that the Spanish is a true and accurate translation of the English.



Translator: Izabel Blankenship

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

DECLARATION

STATE OF LOUISIANA)
PARISH OF ORLEANS)

I, Aramis Brewer, do hereby declare:

1. I was incarcerated at Orleans Parish Prison for approximately 78 days.
2. On or about July 24, 2012 I was in the holding tank in the Intake Processing Center and had not received water for over 24 hours.
3. To protest this treatment and alert guards, I began banging on the door.
4. Deputies came in to apprehend me and began punching me and pulling my hair. They dragged me to the ground
5. After being pummeled to the ground, I was dragged out of the holding tank by my arms. I was then slammed against the gate and the wall.

I declare under penalty of perjury that the foregoing is true and correct, this 12 day of October, 2012.


Aramis Brewer

Sworn before me this 12th day of October, 2012.


Witness