

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

JEFFERY PRESLEY, et al.

**Plaintiffs,
v.**

No. 4:05-cv-00148

CHRISTOPHER EPPS, et al.,

Defendants

**AGREEMENT OF THE PARTIES TO SEEK
ORDER OF DISMISSAL WITHOUT PREJUDICE**

The Parties, by their undersigned counsel, hereby agree to seek an Order of Dismissal without Prejudice, on the following terms:

1. The above-captioned case is dismissed without prejudice by stipulation of the parties on the terms set forth herein. Defendants represent that it is their intention to relocate the entire current population of Unit 32 to appropriate housing within the MDOC or a facility contracted with the MDOC to provide for care of MDOC prisoners. Plaintiffs have entered into this Agreement in reliance on Defendants' representations.

2. Defendants agree that within one year from the entry of this Order, they will correct alleged deficiencies in the system of delivery of medical and mental health treatment to class members by undertaking certain improvements in the delivery of care, as set forth below in paragraph 3 of this Agreement.

3. The improvements in the delivery of care which Defendants agree to implement are as follows:

With respect to mental health care, Defendants agree:

- A. They will no longer house any persons with serious mental illness at Unit 32 and they will transfer all persons with serious mental illness to East Mississippi Correctional Facility or, in the rare and extraordinary case where a seriously mentally ill prisoner cannot safely be housed at EMCF, then another appropriate facility. For purposes of this Agreement, the term "serious mental illness" refers to the definition of severe mental illness set forth in paragraph 1 of the Supplemental Consent Decree entered by the Court in this action on November 15, 2007.
- B. They will ensure that services to address the mental health needs of all prisoners meet generally accepted professional standards.
- C. They will maintain sufficient staffing levels of qualified health care professionals to provide care for prisoners' mental health needs that meets generally accepted professional standards.
- D. They will provide timely access to psychiatrists and other mental health care providers and they will provide a face-to-face encounter when a request for care reports a clinical symptom or a desire for a change in treatment.
- E. They will ensure that encounters with mental health care providers occur in a clinical setting that ensures audio privacy and confidentiality.
- F. They will ensure that all encounters with patients are timely and adequately documented in the medical record progress notes and

other documentation of care will be kept in accordance with accepted professional standards.

G. They will ensure monitoring of patients on psychotropic medications in accordance with the community standard of care. Medications and pharmacy services will comply with community standards.

H. They will develop appropriate treatment protocols to address the needs of Unit 32 patients suffering acute psychiatric crises including, when indicated, constant observation in a room designed to facilitate such observation. Unit 32 inmates that are patients housed in Unit 42 or another unit for crisis management will have reasonable out-of-cell time daily and access to a variety of treatment modalities as clinically indicated. Unit 42 or any other unit designated for crisis management will not be used to house patients requiring an inpatient level of care longer than necessary to stabilize and transfer.

I. They will provide timely access to an inpatient level of care for patients for whom such care is clinically indicated.

With respect to medical care, Defendants agree:

J. They will provide timely and adequate access to care to meet prisoners' serious medical needs, and ensure that services meet generally accepted professional standards.

- K. Sick call services and acute care will include adequate patient assessments, physical examinations, and treatment plans. Referrals to mid-level or advanced level providers will be made timely as clinically indicated.
- L. All care provided will be properly documented in the medical record in accordance with community standards.
- M. They will develop policies and procedures to provide sufficient operational guidance to staff providing health care services, including a written set of physician-approved nursing protocols;
- N. They will maintain sufficient numbers of qualified health care professionals to meet prisoners' medical needs and sufficient security staffing to ensure timely patient escorts to clinics. They will ensure that all persons providing medical treatment possess licensure and/or certification that permit them to practice within the State of Mississippi and that such persons practice only within the scope of their training and licensure.
- O. Patients with chronic conditions will be seen in chronic care clinics at a frequency determined by their level of disease control. Treatment will be in accordance with nationally accepted clinical guidelines.
- P. Patients will receive ordered medications timely and without interruption. Medications will be administered and documented in accordance with accepted nursing standards.

Q. Defendants will conduct quality improvement activities and adequate clinical performance reviews. All clinical staff will be properly supervised.

4. Defendants agree that on reasonable notice Plaintiffs and their experts will have unimpeded access to facilities, staff, inmates, and medical records at Mississippi State Penitentiary and any other MDOC facility to which Defendants transfer *Presley* class members for purposes of monitoring Defendants' progress in correcting the alleged deficiencies in the delivery of medical and mental health care identified in paragraph 3 of this Agreement.

5. Within one year from the date of this Order, Plaintiffs may file a motion requesting that this case be restored to the Court's active docket, based on the findings of Plaintiffs' experts that Defendants have not substantially remedied the alleged deficiencies in medical and mental health care described in paragraph 3 of this Settlement Agreement. If the Plaintiffs file such a motion supported by the experts' findings, the case will be restored to the Court's active docket and the case will be set down for an evidentiary hearing on whether there exist current and ongoing violations with respect to Plaintiffs' right to constitutionally adequate medical and mental health care.

6. If Plaintiffs do not file the motion described in paragraph 5 within the prescribed time period, or if the motion is filed but the Court finds after evidentiary hearing that there is no current and ongoing violation of Plaintiffs' right to constitutionally adequate medical and mental health care, the case will be finally dismissed with prejudice.

7. The Court will retain jurisdiction of the case until it is finally dismissed pursuant to the terms of this Order, and to determine the reasonable amount of plaintiffs' attorneys' fees, expert fees and costs, pursuant to Paragraph 18 of the original Consent Decree entered in this case on April 28, 2006.

CONSENTED TO:

/s/ Margaret Winter

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