

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

JOSHUA DUNN, *et al.*,)
))
Plaintiffs,)
))
v.)
))
KIM THOMAS, in his official)
capacity as Commissioner of the)
Alabama Department of Corrections;)
RUTH NAGLICH, in her official)
capacity as Associate Commissioner)
of Health Services for the Alabama)
Department of Corrections; and)
ALABAMA DEPARTMENT OF)
CORRECTIONS,)
))
Defendants.)

CIVIL ACTION NO.:
2:14-cv-00601-MHT-TFM

**JOINT REQUEST FOR CONTINUANCE OF EVIDENTIARY HEARING ON
PLAINTIFFS’ MOTION FOR PRELIMINARY INJUNCTION**

On September 4, 2015, Plaintiffs moved for a preliminary injunction regarding the distribution of razor blades in the male facilities of Defendant Alabama Department of Corrections. (Doc. 56.) Following complete briefing on the motion, this Court scheduled an evidentiary hearing to start on February 9, 2015. (Doc. 69.)

The parties have agreed on terms to resolve the issues raised in the motion. The agreement between the parties is attached hereto as Exhibit A.

The parties jointly request that the evidentiary hearing of the issues raised in the preliminary injunction motion, currently set to begin on February 9, 2015 be continued to on or after May 11, 2015. On or before April 13, 2015, Plaintiffs will withdraw the preliminary

injunction motion, provided that Defendants have complied in all reasonable respects with the provisions of the agreement, as determined through the monitoring process set forth in the agreement.

Respectfully Submitted,

/s/ Maria V. Morris
Counsel for Plaintiffs

/s/ John G. Smith
Counsel for Defendant Alabama Department
of Corrections

/s/ William R. Lunsford
Counsel for Defendants Kim Thomas and
Ruth Naglich

Exhibit A

her official capacity as the Associate Commissioner of the ADOC; and the ADOC (hereinafter referred to as “Respondents”).

1. **Cessation of the Use of Staff and Blade-type Razors.** Respondents agree that ADOC will cease the use of staff and separate blade-type razors within the ADOC system. Inmates shall be informed no later than January 16, 2015 that these razors will be contraband after January 23, 2015. Directives, to the extent not already issued, shall be made requiring that inmates shall surrender all staff and separate blade-type razors to ADOC no later than January 23, 2015 and that, thereafter, all such staffs and blades shall be contraband. Any inmate found to have the same in his possession after January 23, 2015 may be subject to discipline in accordance with ADOC policy.

2. **Restricted Disposable Razor Distribution in Segregation Units.**¹ Inmates housed in Inmate Segregation Units within the ADOC system shall not be issued or allowed to possess disposable razors, nor shall inmates be allowed to bring disposable razors into Inmate Segregation Units. Instead, these inmates will be provided with disposable razors at the time they shower or are given the opportunity to shower. The disposable razors will be marked in such a way that they are specific to the inmate to whom the disposable razor is issued. ADOC personnel shall track the issuance of such disposable razors and the razors shall be

¹ These provisions shall not apply to female facilities (i.e., Tutwiler Prison for Women, Birmingham Work Release Center, and Montgomery Women’s Facility.)

returned to ADOC personnel after the inmates have showered. In the event any disposable razor is not returned, returned in a damaged condition or not accounted for at the end of the shower period will be noted as an incident in the segregation log. In the event a razor is missing, a search will be conducted to recover it at that time or as soon as possible thereafter.

3. No Distribution of Razors in Residential Treatment Units, Stabilization Units, or to Inmates on Suicide Watch.² Inmates housed within Residential Treatment Units and in Stabilization Units and those on suicide watch will not be provided with razors for any reason, including to shave. Instead, these inmates will be provided with clipper shaves in their unit. Clipper sanitizer will be provided with the clippers. No inmate in Residential Treatment Units, Stabilization Units, or Suicide Watch shall be disciplined for failing to comply with the grooming policy if the failure is the result of clipper shaves not being provided.

4. Incorporation of Razor Limitations into Regulations.³ ADOC shall issue directives to implement the provisions of paragraphs 1, 2, and 3 of this

^{2,3} These provisions shall not apply to female facilities (i.e., Tutwiler Prison for Women, Birmingham Work Release Centre, and Montgomery Women's Facility.)

³ These provisions shall not apply to female facilities (i.e., Tutwiler Prison for Women, Birmingham Work Release Center, and Montgomery Women's Facility.)

agreement no later than April 12, 2015. Such directives will be incorporated into ADOC regulations no later than 1 year from the time the directives are issued.

5. Surrender of Razors by Inmates Housed in Segregation, Residential Treatment Units, Stabilization Units, or those on Suicide Watch.³

Inmates in Segregation, Residential Treatment Units, Stabilization Units, or those on Suicide Watch shall be informed no later than January 16, 2015 that razors will be contraband in these units after January 23, 2015. Any inmates housed in Segregation, Residential Treatment Units, or Stabilization Units or who are on suicide watch shall surrender to ADOC staff any and all razors of any type and any and all razor blades in their possession on or before January 23, 2015. Thereafter, all such razors or razor blades shall be contraband and any inmate found to have the same in his possession may be disciplined in accordance with ADOC policies.

6. Monitoring by Counsel for the Petitioners.⁴ Copies of all directives related to the razors or razor blades as described in paragraphs 1 through 5 above shall be provided to Counsel for Petitioners on or before February 16, 2015. Any subsequent directives or regulations pertaining to the matters described in paragraphs 1 through 5 above during the pendency of this litigation shall be promptly provided to Counsel for Petitioners. Additionally, Counsel for Petitioners

⁴ These provisions shall not apply to female facilities (i.e., Tutwiler Prison for Women, Birmingham Work Release Center, and Montgomery Women's Facility.)

will be provided access to any portion of a segregation log mentioning the damage or loss of a disposable razor during the pendency of this litigation as well as the names of any inmate disciplined pursuant to the policy changes set forth in this agreement.

7. **Counsel for Petitioners May Meet with Inmates.**⁵ Counsel for the Petitioners will be allowed, at their request, confidential monitoring visits with inmates in Segregation Units, Residential Treatment Units, Stabilization Units, and inmates recently released from Suicide Watch. Counsel for the Petitioners shall give five business days' notice of their monitoring visit at a particular ADOC facility, which request will not be unreasonably denied. Respondents will provide a list of inmates in any Segregation Unit, Residential Treatment Unit, and Stabilization Unit, and inmates released from Suicide Watch within the past two weeks, in the facility where the visit has been requested. Within one business day of receiving the list, Counsel for Petitioners will identify no more than eight of the inmates listed they want to interview. Respondents will then arrange interviews with the requested inmates within three business days of the receipt of the names of inmates who Counsel for Petitioners wish to interview and the interviews will otherwise be conducted in the same manner as any inmate visit. However,

⁵ These provisions shall not apply to female facilities (i.e., Tutwiler Prison for Women, Birmingham Work Release Center, and Montgomery Women's Facility.)

Respondents will not compel any of the requested inmates to participate in the interviews. The interviews will last up to fifteen minutes per individual for the limited purpose of discussing compliance with this Agreement during the pendency of this litigation. Counsel for the Petitioners will be permitted no more than two visits to each facility with a Segregation Unit, Residential Treatment Unit, Stabilization Unit, or Suicide Watch cell for the purpose of conducting the confidential monitoring meetings described in this paragraph. In other words, for purpose of conducting the confidential monitoring meetings described in this paragraph, Counsel for the Petitioners will be allowed up to two visits per ADOC facility covered by this Agreement and may meet with no more than eight inmates per each of these two visits. Counsel for the Petitioners may be allowed (but are not guaranteed) other attorney visits at the facility on the same day as the monitoring visit.

8. **No Retaliation.** The Parties agree that they will not retaliate against one another or against any other inmate regarding the filing of the PI complaint, the issues raised in the PI complaint, the resolution of the PI complaint, the notification of any failure to abide by this Agreement, this Agreement or otherwise.

9. **No Waiver of the Right to Claim or Contest Attorney Fees.** Nothing expressed herein shall act as a waiver of the right of any party to claim

attorney fees for any work performed on the PI and nothing expressed herein shall operate as a waiver of a claim for attorney fees for any work performed on the PI. Nothing expressed herein shall operate as a waiver of the right of a party to contest a claim for or award of attorney fees and nothing contained herein shall permit any party to argue that any other party has consented to an award of attorney fees.

10. **Dismissal of the PI Complaint.** On or before April 13, 2015, Petitioners agree to dismiss the PI complaint, provided that Respondents shall have complied in all reasonable respects with the provisions of this Agreement. In the event that Petitioners become aware of any event or alleged event that they believe reflects Respondents' failure to adhere to and abide by the agreements expressed herein, counsel for Petitioners shall provide counsel for Respondents with written notification of such failure, referencing the particular time, location and persons involved or alleged to be involved in such failure.

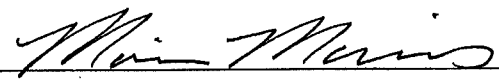
11. **Non-admission of Liability.** This Agreement is not to be, and shall not in any way be, construed as an admission by Respondents that Respondents violated any federal, state, or local law, standard, or industry practice. The Parties agree that this Agreement shall not be used as evidence against Respondents in any future proceedings relating to this or any other matter.

12. **Complete Agreement.** This memorandum contains the entire Agreement between the Parties with respect to the matters addressed herein.

Nothing contained in this Agreement shall be construed more strictly against any party than the other and the Parties agree that they, through their counsel, have had an equal opportunity to draft, revise and provide input into the terms and conditions of this Agreement.


13. **Notification to the court.** Upon the execution of this Agreement but in no event later than January 9, 2015, the Parties shall inform the Honorable Myron Thompson of this Agreement and shall jointly request that the trial of the issues raised in the PI complaint set to begin on February 9, 2015 shall be continued or held in abeyance to on or after May 11, 2015, unless the PI complaint is dismissed sooner in accordance with Paragraph 9 of this Agreement.

By Petitioners this 12th day of January, 2015.



Counsel for Petitioners

By Respondents this 12th day of January, 2015.



Counsel for Respondents

CERTIFICATE OF SERVICE

I hereby certify that I have on this 12th day of January, 2015, served a copy of the foregoing through the Court's CM/ECF filing system, and that by virtue of this filing notice will be sent electronically to all counsel of record, including the following opposing counsel:

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