

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

EDWARD BRAGGS, et al.,)	
)	
Plaintiffs,)	
)	
v.)	CIVIL ACTION NO.
)	2:14cv601-MHT
)	(WO)
JEFFERSON S. DUNN, in his)	
official capacity as)	
Commissioner of)	
the Alabama Department of)	
Corrections, et al.,)	
)	
Defendants.)	

PHASE 2A OPINION AND ORDER ON PLAINTIFFS' MOTION
FOR AN ORDER TO SHOW CAUSE

Previously this court found that the State of Alabama provides inadequate mental-health care in its prisons in violation of the Eighth Amendment's prohibition against cruel and unusual punishment. See *Braggs v. Dunn*, 257 F. Supp. 3d 1171, 1267 (M.D. Ala. 2017) (Thompson, J.). The court found that "persistent and severe shortages" of mental-health care staff was a significant problem contributing to these constitutional violations. *Id.* at 1268. On February

20, 2018, the court issued an Understaffing Remedial Order that established concrete deadlines by which the Alabama Department of Corrections (ADOC) was to increase its mental-health staffing. See Phase 2A Understaffing Remedial Order (doc. no. 1657) at 4. Because the plaintiffs have adequately alleged in their motion for order to show cause and subsequent submissions that the defendants failed to meet these deadlines, the court will now order the defendants to show cause why they should not be held in civil contempt.

I. Procedural History

The plaintiffs in this class-action lawsuit include a group of mentally ill prisoners in the custody of ADOC. The defendants are ADOC Commissioner Jefferson Dunn and ADOC Associate Commissioner of Health Services Ruth Naglich, who are both sued in only their official capacities. In a liability opinion entered on June 27, 2017, this court found that ADOC's mental-health care

for prisoners in its custody was, simply put, "horrendously inadequate." *Braggs*, 257 F. Supp. 3d at 1267. The court laid out seven factors contributing to the Eighth Amendment violations. *Id.* at 1267-68. Additionally, it found that "persistent and severe shortages of mental-health staff and correctional staff" constitute "an overarching issue[] that permeate[s] each of the ... contributing factors of inadequate mental-health care." *Id.* at 1268.

The court severed the remedy into several discrete issues, to be addressed one after another. Because of the centrality of understaffing to ADOC's mental-health care failings, it was determined that "this issue must be addressed at the outset and that the earlier the problem is attacked the better." *Braggs v. Dunn*, 2018 WL 985759, at *1 (M.D. Ala. Feb. 20, 2018) (Thompson, J.) (internal quotation marks omitted).

On February 20, 2018, the court issued an Understaffing Remedial Opinion, *id.*, and Understaffing Remedial Order, (doc. no. 1657). The order mandated

the following deadlines for remedying mental-health staffing:

"(a) By April 1, 2018, ADOC's new mental-health vendor shall begin providing mental-health services.

"(b) By May 1, 2018, ADOC's new mental-health vendor, shall, in addition to continuing to fill those positions in place at the time of this order, fill at least 65 % of the additional mental-health staffing positions provided for in the contract.

"(c) By June 1, 2018, ADOC's new mental-health vendor, shall, in addition to continuing to fill those positions in place at the time of this order, fill at least 75 % of the additional mental-health staffing positions provided for in the contract.

"(d) By July 1, 2018, ADOC's new mental-health vendor, shall fill the mental-health staffing positions consistent with the contract."

Id. at 4. The July 1, 2018, staffing requirement is to remain in effect until November 2019, when new staffing ratios will be implemented. See *id.* at 5. The court further ordered that a "party should file a motion to extend the deadline" if it "may not be able to meet a deadline for reasons outside the party's control or for other good cause." *Id.* at 9.

On July 2, 2018--after all relevant deadlines in the Understaffing Remedial Order had passed--the plaintiffs filed a notice of non-compliance and motion for order to show cause why the defendants should not be held in contempt for violating the order. Despite subsequent mediation efforts with U.S. Magistrate Judge John E. Ott, the parties have been unable to resolve the issues.

II. Discussion

This court's "inherent contempt authority" is a "power 'necessary to the exercise of all others.'" *Int'l Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 831 (1994) (quoting *United States v. Hudson*, 11 U.S. 32, 34 (1812)). Civil contempt proceedings are "brought to enforce a court order that requires the defendant to act in some defined manner." *Mercer v. Mitchell*, 908 F.2d 763, 768 (11th Cir. 1990). The plaintiff initiates the proceeding by alleging that the defendant violated the order, and requesting the court

to order the defendant to "show cause why he should not be held in contempt and sanctioned until he complies." *Id.* As clearly set forth by the Eleventh Circuit Court of Appeals, "[i]f the court finds that the conduct as alleged would violate the prior order," it enters a show cause order and conducts a hearing on the matter. *Id.*; see also *Reynolds v. Roberts*, 207 F.3d 1288, 1298 (11th Cir. 2000) ("If satisfied that the plaintiff's motion states a case of non-compliance, the court orders the defendant to show cause why he should not be held in contempt. ...").

Here, the plaintiffs contend that the defendants have violated the Understaffing Remedial Order in two ways. First, they allege that the defendants failed to meet three deadlines for filling mental-health care staffing positions, which were set for May 1, June 1, and July 1, 2018. Second, they allege that the defendants failed to file motions to extend these deadlines, as required by the order. Upon review of the motion, the court finds that, if proven at the

contempt hearing, the defendants' "conduct as alleged would violate," *Mercer*, 908 F.2d at 768, the Understaffing Remedial Order with respect to both the staffing deadlines and extensions, and will therefore enter an order to show cause.

Accordingly, it is ORDERED that the plaintiffs' motion for an order to show cause (doc. no. 1916) is granted, and that the defendants show cause why they should not be held in contempt at the evidentiary hearing set on September 18, 2018, at 9:00 a.m., in Courtroom 2FMJ of the Frank M. Johnson Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama.

DONE, this the 14th day of September, 2018.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE