

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

D.D. and all other similarly situated, et al.,	:	Case No. 2:10-cv-1097
	:	
Plaintiffs,	:	Judge Edmund A. Sargus
	:	
v.	:	Magistrate Judge Terrance P. Kemp
	:	
WASHINGTON COUNTY, OHIO, et al.,	:	<u>NOTICE TO CLASS OF</u>
	:	<u>SETTLEMENT OF CLAIMS</u>
	:	<u>INVOLVING WASHINGTON</u>
Defendants.	:	<u>COUNTY JUVENILE CENTER</u>

TO: ALL PERSONS UNDER TWENTY YEARS OF AGE AS OF DECEMBER 6, 2010 WHO HAVE BEEN, ARE NOW, OR WILL IN THE FUTURE, BE HELD IN CUSTODY IN THE WASHINGTON COUNTY, OHIO JUVENILE CENTER

This notice is sent to inform you about the proposed settlement of a class action lawsuit (the “class action”) brought on behalf of youth that have been in custody at the Washington County Juvenile Center (“the Center”). **If you fit the description above, you may be a member of the class.**

This notice is sent to you pursuant to an order of the United States District Court for the Southern District of Ohio (“the Court”), and Rule 23 (e) (2) of the Federal Rules of Civil Procedure. This case has been pending since December 6, 2010.

The plaintiffs allege that Washington County and the other defendants violated the Constitution and other laws that apply to the conditions at the Center. Allegations include that individuals were locked in detention cells for 23 hours per day, allowing only limited recreation; denied privacy; held in suicide gowns for punishment and other violations. Washington County and the other Defendants deny these allegations.

The Court has certified this proceeding as a class action under Rule 23(b) (2) and (b) (3) of the Federal Rules of Civil Procedure. The Court has appointed eight youth and their guardians to serve as class representatives. The Court has appointed the following attorneys to serve as class counsel:

Alphonse A. Gerhardstein
Jennifer L. Branch
Gerhardstein & Branch, Co. LPA
432 Walnut Street, Suite 400
Cincinnati, Ohio 45202
513.621.9100

If you are a member of the class, you will be considered a party to this action for all purposes unless you request exclusion pursuant to Rule 23(b) (3). Class members who do not request exclusion from the class will receive the benefit of, and be bound by the terms of the consent decree or Settlement if the terms are approved by the Court.

The parties have entered into a proposed consent decree settling all of the claims in the case (“Settlement”). The Settlement generally provides for both damages and changes in the operation of the center.

Damages: The Settlement includes an award of money damages to the whole class of approximately \$406,230.00. Damages will be paid pursuant to a claims process that will commence promptly after the fairness hearing. Damages include an award of:

- Class members held in detention more than 24 hours per incident shall receive \$60.00 for each day held in detention without being released to attend school classes;
- \$160.00 for each day a class member was placed in a suicide gown while in detention without a mental health practitioner being called to do an assessment;
- \$50.00 for each day a class member was in detention and required to wear shackles while participating in recreation, in school, or in the detention cell;
- Class members held in isolation more than 24 hours per incident shall receive \$40.00 for each day held in isolation and not released for school classes;
- \$2,500.00 for each class representative;
- A fund of \$100,000.00 shall be used to compensate each class member who can establish serious and significant physical and/or emotional personal injury such as pain and suffering due to delayed medical or mental health care or actions by staff. Class members who seek an award from the fund shall not be entitled to an award based on any of the daily rates set out above.

Reforms: The Settlement calls for changes in the way the Center is operated, including:

- No youth will be held in detention for more than 24 hours
- No youth will be held in isolation for more than 24 hours (there is an exception to the limit if a mental health provider recommends suicide watch)
- Youth in detention between 7 a.m. and 7 p. m. shall receive a minimum of one hour recreation without restraints
- Privacy zone will be established for detention and observation cells so the view in the monitoring camera does not show areas around the toilet and shower
- Medical director to be appointed and medical policies will be established
- Suicide screening and staff training will be improved
- End all community service at farms or other for profit establishments
- Consult with University of Cincinnati on programming
- Communicate timely with home schools to ensure special education compliance
- Update handbook
- Searches by staff of same gender as youth
- End payments of child support or social security to County General Fund.

The Settlement will be in place for one year but can be extended for six more months if the terms are not implemented. The Court will appoint corrections expert Steve Martin as monitor to ensure compliance with the terms regarding operations.

The Defendants shall pay \$220,000.00 to the plaintiffs for attorney fees and expenses for services to the class through the fairness hearing. Up to \$20,000.00 more will be paid by Defendants for Plaintiffs’ attorney fees and expenses for work processing claims and monitoring after the fairness hearing.

What should you do? You have three choices in how you respond to this notice.

Do Nothing. Stay in Class and Not Object to Settlement. If you wish to remain a member of the class for all purposes and you do not want to object to the terms of the Settlement there is nothing you need to do. Choosing this option will cause the damages to be paid and the operational changes to be implemented most quickly.

Stay in Class but Object to Settlement. If you wish to remain in the class but disagree with the terms of Settlement you can object to the Settlement. If you wish to object you should write to the address below and state the reason for your objection. That is, explain what term(s) you oppose and why? If the objection is granted the Court can decline to approve the Settlement and the parties can return to the litigation and no class member will recover anything unless and until the litigation is successfully concluded.

Withdraw from Lawsuit and Class. You can “opt out” of this lawsuit and file your own lawsuit. If you file your own lawsuit you will be responsible for finding and paying for your own lawyer. If you wish to be excluded from the class, you must state this in writing, accompanied by an original signature. Your opt out request must specifically state, “I WISH TO BE EXCLUDED FROM THE CLASS.”

Address for objections and/or for withdrawing from lawsuit:

Your objection or opt out request for exclusion from the lawsuit must be mailed to the Clerk of the United States District Court for the Southern District of Ohio, 85 Marconi Blvd., Columbus, Ohio 43215.

Your written objection or request for exclusion must refer to the litigation as D.D. v. Washington County, Case. No. 2:10-cv-1097. You must include your name, address, and telephone number in your statement. Your objection or exclusion must be sent by mail and must be postmarked on or before, _____, 2011. You must sign your objection or opt out request.

Questions?

If you have questions, **do not call the Judge, the Court, or the clerk’s office.** If you desire to contact the attorneys representing you regarding this class action, **please contact Jennifer Branch** at the law firm of Gerhardstein & Branch, Co., L.P.A, 432 Walnut Street, Suite 400, Cincinnati, Ohio, 45202, telephone number (513) 621-9100, fax number (513) 345-5543, E-mail address: JBranch@gbfirm.com. If you choose to contact Jennifer Branch, please refer specifically to “the Washington County case.”

This notice is not all inclusive. References to pleadings and other papers and proceedings are only summaries. For full details concerning the class action and the claims and defenses asserted by the parties, you or your lawyer may review the pleadings and other papers filed at the office of the Clerk of the United States District Court during regular business hours or on the following website: www.gbfirm.com.

Clerk, U.S. District Court, Southern District of Ohio

Date: _____