

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE TERRITORY OF GUAM

UNITED STATES OF AMERICA,) CIVIL CASE NO. 91-00020
)
Plaintiff,)
)
v.) **ORDER**
)
TERRITORY OF GUAM, *et al.*,)
)
Defendant.)
_____)

This matter came before the court for a status hearing on March 31, 2009. Present at the hearing were Independent Monitor J. Bradley Klemm, Esq., Assistant U.S. Attorney Mikel Schwab, Assistant Attorney General Donna Lawrence, Department of Corrections (“DOC”) Director Jose B. Palacios, DOC Warden Francisco Crisostomo, and members of the DOC staff. Representatives from the Department of Justice (“DOJ”) participating in the hearing via telephone conference were Tammie Gregg, Civil Rights Division Special Litigation Section Deputy Chief; Laura Coon, Special Litigation Section Attorney; and Jeff Murray, Special Litigation Section Investigator.

At the hearing, the Independent Monitor gave an oral report as to his site visits, describing the current conditions at the facilities, and the progress towards gaining compliance with the recommendations made by the DOJ experts since their visit in August 2008. He advised the court that several recommendations made by the DOJ fire safety expert have been implemented, and other issues raised in the expert’s report are being addressed by DOC officials. The court recognizes and commends Director Palacios and the members of his staff for the

1 progress made in regard to fire safety and protection.

2 During the hearing, DOC Director Palacios requested that, with regard to inmates housed
3 at the Department of Mental Health and Substance Abuse (“DMHSA”) facility, the issue of
4 compliance with the Settlement Agreement (*see* Docket No. 35) be addressed in *J.C. v.*
5 *Camacho*, Civil Case No. 01-00041, because he does not have any authority and jurisdiction
6 over these inmates. The Independent Monitor agreed with the Director and informed the court
7 that he had met with Dr. David Shimizu, DMHSA Director, and believed that Dr. Shimizu was
8 handling the compliance issues quite well. The court recognized that deferring this issue to the
9 *J.C.* case, currently pending before Judge Consuelo Marshall, would further the interest of
10 efficiency and avoid the possibility of conflicting court orders. Ms. Gregg requested that the
11 DOJ be given 30 days to respond to the Director’s request. Accordingly, it is hereby **ORDERED**
12 that the Department of Justice shall file a position statement as to this request by April 30, 2009.
13 The statement shall set forth the DOJ’s position as to whether the court should defer its oversight
14 as to inmates housed at DMHSA to the *J.C.v. Camacho*, Civil Case No. 01-00041.

15 It is also **ORDERED** that Independent Monitor shall conduct a site visit, and subsequently
16 file his monitor’s report detailing DOC’s compliance, by June 30, 2009.

17 It is **FURTHER ORDERED** that the Attorney General’s Office, on behalf of DOC, file a
18 status report by June 30, 2009. The report shall address other provisions in the Settlement
19 Agreement, including issues relating to environmental safety issues, and medical and dental care
20 for the inmates. Finally, it has come to the court’s attention that the Independent Monitor has
21 submitted invoices for his services to the court, but payment has not been made. Accordingly,
22 the Attorney General’s Office is **ORDERED** to ensure that payment is made to the Independent
23 Monitor.

24 The next status hearing is scheduled for July 9, 2009, at 9:00 a.m.

25 **IT IS SO ORDERED.**



/s/ Frances M. Tydingco-Gatewood
Chief Judge
Dated: Apr 01, 2009