

# Partial settlement for disabled inmates suit approved with caveats



Kelsey Davis, Montgomery Advertiser 4:50 p.m. CDT June 3, 2016



(Photo: File)

A case that includes every prisoner in Alabama with any sort of disability – something reportedly unprecedented in the state – has received preliminary approval from U.S. District Judge Myron Thompson for a partial settlement.

“Most (Americans with Disabilities Act) cases tend to look at one particular type of disability,” said Maria Morris, a Southern Poverty Law Center attorney who represents the plaintiffs.

Morris said she has only been able to find one other case that matched this case’s scope in terms of covering every type of disability. It was filed in California nearly 20 years ago, and is still ongoing.

SPLC and the Alabama Disabilities Advocacy Program filed the suit nearly two years ago against ADOC, then-ADOC Commissioner Kim Thomas (current Commissioner Jefferson Dunn has since inherited the suit) and Ruth Naglich, ADOC associate commissioner of health services.

“The reason to bring (the complaint) on behalf of all disabled inmates is because ADOC is completely missing a system to accommodate prisoners with disabilities,” Morris said. “There needs to be a process for (disabled inmates) to say, ‘I need help with X.’ ADOC was missing that process.”

ADOC has stated through court filings that its cooperation with the settlement should not be construed as an admission of any legal violation.

“To the contrary, ADOC denies every material allegation of the complaint,” read part of the settlement.

The 180-page complaint contains a laundry list of allegations rooted in ADOC’s “routine and systematic failure” to provide inmates adequate medical care, which has allegedly led to the death and severe injury of multiple inmates.



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[Judge holds off on approving prison suit partial settlement](#)

[\(http://www.montgomeryadvertiser.com/story/news/2016/03/18/judge-holds-off-approving-prison-suit-partial-settlement/81965268/\)](http://www.montgomeryadvertiser.com/story/news/2016/03/18/judge-holds-off-approving-prison-suit-partial-settlement/81965268/)

A narrow sampling of those allegations includes claims that an inmate didn’t receive appropriate medical care after he was stabbed, that another has a grapefruit-sized hernia which also didn’t receive treatment, and that one was persuaded to sign a “Do Not Resuscitate” order – only to later be denied breathing treatments and medications because of it.

After it was filed, Judge Thompson split the case into two phases. Phase one deals specifically with inmates who are physically disabled; phase two is specifically for those with mental disabilities.

The preliminarily-approved settlement applies only to phase one. Phase two is currently scheduled for trial in October.

Attorneys submitted a [partial settlement agreement \(/story/news/2016/03/16/attorneys-seek-mortality-review-documents-other-records-prison-suit/81867752/\)](#) for the first time in March, but [Thompson did not approve it \(/story/news/2016/03/18/judge-holds-off-approving-prison-suit-partial-settlement/81965268/\)](#), citing that it did not outline specific provisions to remedy issues at the heart of the case.

Coming up with specific provisions [was further complicated \(/story/news/2016/04/18/prison-construction-bill-creates-complexities-federal-case/83092346/\)](#) when Gov. Robert Bentley [announced a plan \(/story/news/politics/southunionstreet/2016/02/02/1st-daystate-state/79403066/\)](#) to close most existing prisons and replace them with four new ones.

This is because as part of the settlement, ADOC said it would provide adequate ADA-compliant cells to house prisoners with disabilities – which will require construction.

So instead of negotiating just one settlement agreement between 42 named plaintiffs and five defendants, attorneys were juggling three.

One planned how to move forward if the proposed prison bill failed, and no new prisons were constructed, one detailed what to do if the bill passed and all four proposed prisons were constructed, and one outlined what would happen if some new prisons were built, but not all four.



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Prison construction bill creates complexities for federal case

(<http://www.montgomeryadvertiser.com/story/news/2016/04/18/prison-construction-bill-creates-complexities-federal-case/83092346/>)

The prison construction bill ultimately died with the legislative session. (</story/news/politics/southunionstreet/2016/05/04/prison-construction-bill-reaches-final-round/83915044/>)

Though attorneys have passed the legislative roadblock (for now) and Thompson has given preliminary approval of the settlement, several hurdles still must be cleared before phase one is officially settled.

All Alabama inmates, including the named plaintiffs, will have the opportunity to review the settlement, and submit any objections they may have to it in writing.

Attorneys will sort through the objections, and summarize them for the judge. The judge may also hear testimony from inmates before giving official approval.

And while months of litigation stand between this preliminary partial settlement and the case's conclusion, Morris said she doesn't see it dragging out for 20 years like the California case.

"I think there's a great desire for it not to," Morris said. "I think the Department of Corrections here recognizes the importance of doing this and doing it right."

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