# APPENDIX C

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

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W.D. OF TN, MEMPHIS

DARIUS D. LITTLE,

Plaintiff,

vs.

Civil Action No. 96-2520 TUA

SHELBY COUNTY, TENNESSEE; A.C. GILLESS, individually and in his official capacity as Sheriff of Shelby County, Tennessee; DENNIS DOWD, individually and in his official capacity as Chief Jailer of Shelby County; and JIM ROUT, individually and in his official capacity as Mayor of Shelby County,

**CONSENT ORDER ADOPTING RECOMMENDATIONS OF SPECIAL MASTER, FINAL ORDER GRANTING INJUNCTIVE RELIEF AS TO CONDITIONS IN THE SHELBY COUNTY JAIL**

THIS CAUSE came to be heard upon plaintiff's unopposed "Motion for Court to Accept Findings of Fact and Adopt Recommendations of Master's Final Decree of Court."

IT APPEARING TO THE COURT that on September 12, 1996, the parties entered into a "Consent Order Stipulating Liability for Injunctive Relief Purposes Only; and Establishing Procedure for Remedy." In the consent order stipulating liability, the

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parties stipulated and the Court found that Darius Little's Eighth Amendment right was violated due to the risk of physical and sexual assault by other inmates in the Shelby County Jail. The consent order stipulating liability required both parties to submit proposed remedies to correct the constitutional violations. Furthermore, the consent order stipulating liability required the proposed remedies to be "narrowly drawn and extend no further than necessary to correct the violation of the federal rights, and be the least intrusive means necessary to correct the violation of the federal rights." (See Consent Order Stipulating Liability, ¶ 3).

IT FURTHER APPEARING to the Court that on Wednesday, May 14, 1997, and Tuesday, May 20, 1997, the Court took proof as to the least intrusive means necessary to remedy the unconstitutional conditions in the Shelby County Jail. The Court heard testimony from court-appointed experts as to the least intrusive means to remedy the unconstitutional conditions.

IT FURTHER APPEARING to the Court that on November 13, 1997, this Court entered its "Findings of Fact and Conclusions of Law in Support of Order Granting Injunctive Relief to Remedy Unconstitutional Conditions in the Shelby County Jail." In these findings, the Court made the following specific finding:

> Furthermore, the Court finds . . . the plaintiff's proposed version is the least intrusive remedy that will correct the federal constitutional violation. The Court finds that the order granting injunctive relief to remedy unconstitutional conditions in the Shelby County Jail, entered concurrently herewith, is narrowly drawn, extending no further than necessary to correct the violation of federal right, and is the least intrusive means necessary to correct the violation of the federal right.

(See Findings of Fact, pp. 7-8).

These findings of fact were entered in compliance with the Prison Litigation Reform Act, codified at 18 U.S.C. § 3626(a)(1).

IT FURTHER APPEARING to the Court that on November 12, 1997, this Court entered its "Order Granting Injunctive Relief to Remedy Unconstitutional Conditions in the Shelby County Jail" (hereinafter "Court Order").

IT FURTHER APPEARING to the Court that paragraph 10 of the Court Order required the appointment of a Special Master to monitor implementation of the remedy required in the Court Order. Furthermore, paragraph 10 of the Court Order required the Special Master after eighteen months of monitoring, to report to the Court as to whether the prospective relief was successful, and to propose to the Court what other remedial relief might be appropriate to correct unconstitutional conditions in the Shelby County Jail.

IT FURTHER APPEARING to the Court that on January 14, 1998, Douglas Morgan was appointed as Special Master on the Case.

IT FURTHER APPEARING to the Court that on September 8, 1999, the Special Master filed his "Special Master's Final Report and Recommendations as to Conditions in the Shelby County Jail" in accordance with Rule 53(e)(2) of the Federal Rules of Civil Procedure.

IT FURTHER APPEARING to the Court that no party has filed objections to either the findings of fact or recommendations of the Special Master contained in the aforestated report.

IT FURTHER APPEARING to the Court that plaintiff has filed his "Motion for Court to Accept Findings of Fact, and Adopt Recommendations of master as the Final Decree of the Court." The defendants have not opposed the motion of plaintiff requesting the Special Master's recommendations to be incorporated into a final decree.

IT FURTHER APPEARING to the Court that on October 21, 1999, the Special Master filed his "Supplement to Special Master's Final Report and Recommendations as to Conditions in the Shelby County Jail." In the supplement, the Special Master made the following findings:

> 1. The prospective relief recommended in the Master's Report is necessary to correct a current and ongoing violation of federal rights; and the prospective relief recommended in the Master's Report extends no further than necessary to correct the violations of federal rights; and the prospective relief recommended in the Master's Report is narrowly drawn and is the least intrusive means to correct the violation of federal rights.
>
> 2. Prospective relief as recommended in the Master's Report is warranted in accordance with 18 U.S.C. § 3626(a)(1) and 18 U.S.C. § 3626(b)(3) until at least November 1, 2004.

IT FURTHER APPEARING to the Court that on October 21, 1999, the parties filed their "Stipulation by the Parties." In the aforestated pleading the parties stipulated that in accordance with 18 U.S.C. § 3626(a)(1) and 18 U.S.C. § 3626(b)(3), the recommendations contained in the Master's Report are necessary to correct a current and ongoing violation of federal rights; the recommendations in the Master's Report extend no further than necessary to correct the violations of the federal rights; and the

prospective relief recommended in the Master's Report is narrowly drawn and is the least intrusive means to correct the violation of federal rights.

IT FURTHER APPEARING to the Court that the findings and recommendations of the Special Master should be adopted by this Court.

IT IS, THEREFORE, ORDERED ADJUDGED AND DECREED BY CONSENT THAT:

1. The provisions of remedial relief required by this Court's "Order Granting Injunctive Relief to Remedy Unconstitutional Conditions in the Shelby County Jail" entered on November 12, 1997, shall remain in full force and effect up until and including November 1, 2004; with the exception that the provisions concerning the appointment and monitoring by the Special Master are hereby deleted.

2. In addition to the remedial relief required by the Court Order, the following additional provisions shall remain in full force and effect until November 1, 2004:

A. The defendants are to modify their record keeping at the Shelby County Jail to insure accurate collection of data as to violent incidents at the Jail. Specifically, the defendants are ordered to modify their record keeping to remedy the:

(i) Lack of consistency in the incident reports generated by jail staff with regard to classifying incidents (such as whether incidents are physical assaults, gang-related physical or sexual assaults, stabbings, etc.);

(ii) Lack of adequate safeguards in the computer system to insure the computerized incident reports are not altered or deleted at a later date;

(iii) Lack of adequate linkage in the incident reporting system whereby incidents involving numerous parties are cross-referenced to other inmates.

B. It is further ordered that defendants are forbidden to regularly use overtime to staff cell block officer positions required by the Court Order. The defendants are to make good faith efforts to employ sufficient cell block officers to staff all positions required by the Court Order. If due to exceptional reasons, overtime must be utilized to staff a position, voluntary overtime should be used before the use of mandatory overtime. The defendants should in such cases use good faith efforts to cease using overtime to staff positions as soon as possible.

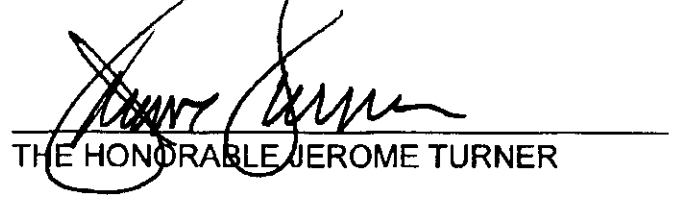
C. The defendants are ordered to maintain the post of jail compliance staff to monitor the remedial provisions required in the Court Order (such as interviewing all participants in altercations and rehousing them if necessary, and investigating all altercations).

D. Additionally, the assistant appointed master, Ms. Wanda Kilgore-Schneider, shall continue until May 1, 2000, the collection of data and review incident reports and assist the defendants in establishing procedures to maintain accurate reports and obtain the accurate collection of data as to violent incidents at the Jail. Ms. Kilgore-Schneider is to file a monthly report with counsel and the Court as to the progress of defendants with accurate data collection.

3. In accordance with 18 U.S.C. § 3626(a)(1) and 18 U.S.C. § 3626(b)(3) based upon the entire record in this cause, including the findings of fact entered by the Court on November 13, 1997, the stipulations of the parties and the findings of the

Special Master; this Court hereby finds that the prospective relief ordered herein is necessary to correct a current and ongoing violation of federal rights. The Court further finds that the prospective relief ordered herein extends no further than necessary to correct the violations of the federal rights, is narrowly drawn, and is the least intrusive means to correct the violation of federal rights.

IT IS SO ORDERED this 24th day of ~~October~~ November, 1999.



THE HONORABLE JEROME TURNER

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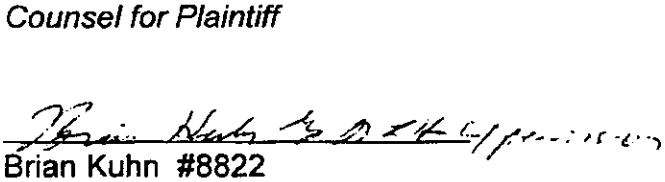

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