

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

RUSSELL K. OGDEN ET AL.,

Plaintiffs,

v.

SHERIFF PETE FIGGINS,

Defendant.

Case No. 16-CV-2268-JAR

**ORDER PRELIMINARILY APPROVING SETTLEMENT AND AUTHORIZING
NOTICE TO THE SETTLEMENT CLASS**

This matter is before the Court on the parties' "Joint Motion for Preliminary Approval of Class Action Settlement and Memorandum of Law in Support" ("Joint Motion") (Doc. 25). After reviewing and considering the Joint Motion and the proposed Settlement Agreement and Consent Decree ("Consent Decree"), the Court orders as follows:

1. On August 4, 2016, this Court certified the following Settlement Class pursuant to Rule 23, Federal Rule of Civil Procedure:

All current and former outside correspondents who wish to write letters to, and/or receive letters from, inmates in the Wilson County Correctional Facility and who are subject to or affected by the Postcard-Only Mail Policy.

See Doc. 11 at 4-5.

2. In its Order, the Court found that this class certification was appropriate because (a) the Settlement Class is so numerous that joinder of all members is impractical; (b) there are common questions of law and fact that predominate over any questions affecting only individual class members; (c) Plaintiffs' claims are typical of the claims of the class; (d) Plaintiffs and their counsel will fairly and adequately protect the interests of the Settlement Class; and (e) a class action is the superior method for resolving this controversy, as the party opposing the class has

acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole. *See id.*

3. The Court further finds that the settlement of this action, as embodied in the terms of the Consent Decree, is preliminarily approved under Federal Rule of Civil Procedure 23(e). The Court finds that the Consent Decree was the product of extensive, arm's-length negotiations between experienced counsel, and the terms of the Consent Decree are fair, reasonable, and adequate and well within the range of reasonableness required for preliminary settlement approval.

4. The Court appoints Plaintiffs Russell K. Ogden, Beatrice Hammer, and John Smith as class representatives for the Settlement Class. The Court appoints Plaintiffs' attorneys (Stephen Douglas Bonney of the ACLU Foundation of Kansas, and Joshua A. Glickman of the Social Justice Law Collective, PL) as class counsel for the Settlement Class.

5. The Consent Decree is incorporated by reference into this Order and is hereby preliminarily adopted as the order of this Court.

6. The Consent Decree provides that members of the Settlement Class be given notice of the pendency of this action and the proposed settlement by posting the Notice of Proposed Settlement (attached to the Consent Decree as Exhibit B) in each pod and visitation area of the Jail for no less than sixty (60) days, and publishing a copy of the Notice on the Sheriff's public web site and in the Wilson County Citizen. The Notice is to be posted, provided, and published in English and Spanish. The Court finds that the notice provisions in the Consent Decree, including the Notice of Proposed Settlement, will provide the best practicable notice under the circumstances and are reasonably calculated to apprise the Settlement Class members of the pendency of this action and their right to object or to exclude themselves from the

Settlement Class. The Court further finds that these notice provisions are reasonable, that they constitute due, adequate, and sufficient notice to all persons entitled to receive notice, and that they satisfy the requirements of due process and Federal Rule of Civil Procedure 23. The Notice of Proposed Settlement is thus approved and adopted. The Court orders that the parties provide the specified notice to the Settlement Class within twenty-one (21) days following entry of this Order.

7. All proceedings in this action are stayed until further order of the Court, except as may be necessary to implement the terms of the settlement.

8. The Court retains continuing and exclusive jurisdiction over the action to consider all further matters arising out of or connected with the settlement, including the administration and enforcement of the Consent Decree.

9. Any Settlement Class member who wishes to submit a Statement of Objection and/or Notice of Intention to Appear shall file such a Statement and/or Notice with this Court before September 25, 2017, or be forever barred.

10. The Final Fairness Hearing, identified in the Notice of Proposed Settlement, is scheduled for **October 25, 2017, at 9:00 a.m.**, in Room 427 at the Kansas City Federal Courthouse. At the final hearing, the Court will determine whether the Settlement Agreement is fair, reasonable, and adequate and should be approved.

IT IS THEREFORE ORDERED BY THE COURT that that the parties' Joint Motion for Preliminary Approval of Class Action Settlement (Doc. 25) is **GRANTED**.

IT IS SO ORDERED.

Dated: July 19, 2017

S/ Julie A. Robinson
JULIE A. ROBINSON
UNITED STATES DISTRICT JUDGE