

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

J.H. AND
DISABILITY RIGHTS MISSISSIPPI

Plaintiffs,

v.

HINDS COUNTY, MISSISSIPPI,

Defendant.

Civil Action No.
3:11-cv-327-DPJ-FKB

PLAINTIFF’S MOTION FOR CLARIFICATION

Plaintiffs J.H. and Disability Rights Mississippi (“Henley-Young Plaintiffs”) move for clarification¹ of the Court’s recent Order extending the Third Amended Consent Decree in this case.² This class action concerns the denial of the rights of children confined in Hinds County’s youth detention facility, many of whom have disabilities and serious mental health care needs.³

¹ See generally *United States v. Philip Morris USA Inc.*, 793 F. Supp. 2d 164, 168–69 (D.D.C. 2011) (acknowledging that while “there is no Federal Rule of Civil Procedure specifically governing motions for clarification,” its recognized “general purpose” is to “explain or clarify something ambiguous or vague”) (internal quotations omitted) (citing *Resol. Tr. Corp. v. KPMG Peat Marwick*, No. 92-1373, 1993 WL 211555, at *2 (E.D. Pa. June 8, 1993); see also *New York v. Trump*, No. 20-CV-2340, 2020 WL 6572675, at *2 (D.D.C. Oct. 22, 2020), *appeal dismissed*, No. 20-5352, 2021 WL 672390 (D.C. Cir. Feb. 10, 2021) (“courts in this Circuit have encouraged parties to file motions for clarification when they are uncertain about the scope of a ruling, and entertaining such motions seems especially prudent if the parties must implement the ruling at issue at subsequent stages of the litigation”) (internal citations and quotations omitted); see also *Adams v. Symetra Life Ins. Co.*, No. CV180378, 2020 WL 4814249, at *1 (D. Ariz. Aug. 19, 2020).

² The current consent decree is the Extended Third Amended Consent Decree, which is referred to as the “Consent Decree” and cited to as “Consent Decree.” Ext. Third Am. Consent Decree (“Consent Decree”), Apr. 2, 2021, ECF No. 161.

³ See Am. Compl. 14, Jun. 6, 2011, ECF No. 6 (alleging that “[a] significant number” of facility residents “live with disabilities,” and that “60–70% of youth in [] Henley-Young require mental health services”); *Id.* at 19-21.

Henley-Young Plaintiffs are (1) a class of all children confined at the Henley-Young Juvenile Justice Center (“Facility”);⁴ and (2) Disability Rights Mississippi.⁵ In 2011, Henley-Young Plaintiffs sued Hinds County (“County”) alleging violations of residents’ Eighth and Fourteenth Amendment rights and of federal laws protecting persons with disabilities.⁶ Henley-Young Plaintiffs and the County entered into a Consent Decree in March of 2012. It was extended in April of 2014; amended and extended in March of 2016; amended and extended in March of 2018; amended and extended in April of 2019; and most recently extended in April 2021 for two years (*i.e.*, up to and including March 28, 2023).⁷

Since September 2017, the Facility has housed children criminally charged as adults – long term in pre-trial detention anywhere from a few months to nearly two years – who are members of the Plaintiffs’ class in *United States v. Hinds County*, No. 3:16-cv-489-WHB-JCG (S.D. Miss., June 23, 2016) (“DOJ Case”).⁸ In a recent Progress Call on July 1, the County expressly stated that (1) the Plaintiffs’ class in the DOJ Case is not subject to the Consent Decree in this case; (2) the 32-resident cap adopted by the Hinds County Board of Supervisors⁹ does not apply to JCAs; and

⁴ See Agreed Order Granting Approval of Settlement Agreement and Certifying a Settlement Class 2, Mar. 28, 2012, ECF No. 32 (defining the settlement class as all children who are currently, or who will in the future be, confined at Henley-Young).

⁵ See Am. Compl. 12-13, Jun. 6, 2011, ECF No. 6. DRMS is Mississippi’s federally-designated Protection and Advocacy system and Henley-Young is a covered facility. 42 U.S.C. §§ 10801 *et seq.*; 42 U.S.C. §§ 15001 *et seq.*

⁶ *Id.* at 19-21 (providing the causes of action, Counts I through V).

⁷ The current consent decree is the Extended Third Amended Consent Decree, which is referred to as the “Consent Decree” and cited to as “Consent Decree.” Ext. Third Am. Consent Decree (“Consent Decree”), Apr. 2, 2021, ECF No. 161.

⁸ Plaintiffs in the DOJ Case are also referred to as juveniles tried as adults (“JCAs”).

⁹ The Resolution is incorporated in Consent Decree Provision 2.1. See Consent Decree at 5-6.

(3) the 21-day maximum length of stay for children under Youth Court jurisdiction adopted by the Hinds County Board of Supervisors¹⁰ is advisory, at best. Plaintiffs disagree.

In support of this Motion, Henley-Young Plaintiffs state as follows:

1. On December 29, 2017, this Court granted Henley-Young Plaintiffs' Motion for Status as Interested Parties in the DOJ case. *See, e.g.*, Motion for Status as Int. Parties, DOJ Case, Dec. 18, 2017, ECF No. 20 and Order Granting Motion for Status as Int. Parties, DOJ Case, Dec. 29, 2017, ECF No. 21, attached as Exhibit A and Exhibit B.

2. Monitor Leonard Dixon, Henley-Young Plaintiffs, and the County confirmed that all Facility residents were equal class members under the Consent Decree during an April 2018 status conference held by this Court. *See, e.g.*, Status Conf. Tr. 4, 11, 16, 36-37, Apr. 24, 2018, attached as Exhibit C.

3. The term "youth" in the Consent Decree "refers to individuals confined at Henley-Young;" and the relevant portion of Consent Decree which incorporates the County's Board of Supervisors Resolution, and offers the only expressed distinction between JCAs and children under Youth Court jurisdiction in the document, states:

[T]he parties acknowledge the November 3, 2014, Hinds County Board of Supervisors' Resolution Regarding the Henley-Young Detention Center providing that Henley-Young shall not house any youth under youth court jurisdiction for more than 21 days. The parties also agree that Henley-Young is a short-term facility not designed to hold residents for longer than 21 days. In light of the facility's nature and the Board of Supervisors' Resolution, the parties agree that Provision 2.1 necessarily requires Henley-Young to discharge youth under youth court jurisdiction on or before his/her 21st day at Henley-Young. The parties agree that henceforth the 21 day time limit requiring discharge and refusal of admission of youth will not apply to juveniles charged as adults. The parties further agree that Provision 2.1 requires Henley-Young to refuse admission to any youth who is sentenced to a period of greater than

¹⁰ *See id.*

21 days. The parties further agree that Provision 2.1 requires that any time spent off-site in a state of detention (including but not limited to at a psychiatric residential treatment facility) must be counted toward a youth's detention stay. The parties further agree that Provision 2.1 necessarily requires Henley-Young to adhere to the monitor's recommended 32-resident capacity limit on average daily population, and that Henley-Young cannot exceed an average daily population of 32 residents, and that any admission that would require an ADP in excess of 32 residents must be denied.

See e.g., Hinds Cty. Bd. of Supervisors Resol., Mar. 9, 2016, ECF 62-1 and Consent Decree at 5-6, attached as Exhibit D and Exhibit E.

4. The redacted roster for June 28 indicates that the Facility has an "in-house" total of 30+1 and has detained a child under Youth Court jurisdiction for 35 days. Facility Daily Roster (redacted), attached as Exhibit F.

Due to the simplistic nature of this motion, Henley-Young Plaintiffs request that the requirement for submitting a memorandum brief pursuant to L. U. Civ. R. 7(b)(4) be waived.

WHEREFORE, Henley-Young Plaintiffs respectfully request that this Court clarify that: (1) all youth confined at Henley-Young, including JCAs, are subject to and protected by this Consent Decree; (2) the 32-resident cap applies to JCAs; and (3) the County is in violation of this Consent Decree when it houses children under Youth Court jurisdiction beyond the 21-day limit.

Dated: July 12, 2021

Respectfully Submitted,

/s/ Leslie Faith Jones

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CERTIFICATE OF SERVICE

I, Leslie Faith Jones, hereby certify that a true and correct copy of the foregoing document was filed electronically. Notice of this filing will be sent by email to all parties by the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF System.

This the 12th day of July, 2021.

/s/Leslie Faith Jones
Leslie Faith Jones, MSB #106092