

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 13-21570-CIV-BLOOM

UNITED STATES OF AMERICA,

Plaintiff,

v.

MIAMI-DADE COUNTY, THE BOARD
OF COUNTY COMMISSIONERS, *et al.*,

Defendants.

UNITED STATES' MOTION FOR SANCTIONS

Plaintiff United States, by and through undersigned counsel, hereby requests that this Court impose sanctions on Defendants for non-compliance with the Consent Agreement and this Court's subsequent Orders.

1. The United States and Defendants entered into a Consent Agreement, ECF No. [5-2], effective May 22, 2013, to address alleged constitutional violations regarding the provision of medical and mental health care at the Miami-Dade County Corrections and Rehabilitation Department ("MDCR") facilities. Except where otherwise agreed to under a specific provision of the Consent Agreement, Defendants were to implement all provisions of the Agreement within 180 days of the Effective Date.

2. In December 2014, the parties jointly filed a Summary Action Plan, ECF No. [25-2], with revised deadlines by which Defendants were to complete the requirements of the Consent Agreement. The deadlines in the Summary Action Plan were entered as an Order of the Court, subject to judicial enforcement. Stipulated Order, ECF No. [25-1] and Order, ECF No. [27].

3. After Defendants did not achieve full compliance with the deadlines in the Summary Action Plan, the parties jointly filed a Revised Summary Action Plan, ECF No. [42-1], in May 2016. The Revised Summary Action Plan provided that Defendants would be in full compliance with all Consent Agreement provisions by the end of February 2017 and was entered as an Order of the Court, subject to judicial enforcement. Stipulated Order, ECF No. [42-2] and Order, ECF No. [43].

4. Pursuant to the Consent Agreement, the parties jointly selected an Independent Monitor to oversee implementation of the Consent Agreement. The Independent Monitor and her team have conducted eight official monitoring tours, in addition to a number of additional visits, provided extensive technical assistance, and filed eight monitoring reports documenting the status of County compliance with the Consent Decree. Monitors' Report No. 1, ECF No. [11]; Monitors' Report No. 2, ECF Nos. [12] and [12-1]; Monitors' Report No. 3, ECF No. [22]; Independent Monitors' Report No. 4, ECF No. [32]; Independent Monitors' Report No. 5, ECF No. [38]; Independent Monitors' Report No. 6, ECF No. [45]; Independent Monitors' Report No. 7, ECF No. [57]; Independent Monitors' Report No. 8, ECF No. [80]. In the eighth report to the Court, submitted on January 19, 2018, the Independent Monitors found that Defendants are in compliance with only 29 of the 115 provisions in the Consent Agreement. Independent Monitors' Report No. 8, ECF No. [80] at 95. The Independent Monitors further found that Defendants are in partial compliance with 70 provisions and in non-compliance with 16 provisions. *Id.* The Independent Monitors also noted their serious concerns with the 12 in-custody deaths that have occurred since January 2017. *Id.* at iv.

5. Following a status conference held on February 7, 2018, the Court entered an Order requiring the parties to submit a proposed Third Revised Summary Action Plan. ECF No.

[84]. The Court also ordered that should the County miss any deadlines in the Third Revised Summary Action Plan, the United States shall advise the Court, within 10 days, as to what sanctions it seeks. *Id.*

6. The parties submitted, and the Court entered as an Order, a Third Revised Summary Action Plan (“Third SAP”), which set forth specific action steps Defendants committed to take in order to reach compliance with the Consent Agreement. ECF No. [91]. The first Final Deadline in that Order was April 16, 2018.

7. Pursuant to the Third SAP, Defendants submitted materials to the Independent Monitors and the United States on April 6, 2018. After receiving feedback from both the Independent Monitors and the United States, Defendants submitted revised and updated materials to the Independent Monitors and the United States on April 16, 2018.

8. On April 20, 2018, the parties filed a Joint Declaration regarding Defendants’ compliance with the April 16, 2018 action steps. *See* ECF No. [108]. In that report, the United States and Independent Monitors informed the Court that Defendants’ submissions were not in compliance with all of the action steps due on April 16, 2018. Defendants acknowledged that full compliance with all of the action items had not been achieved. *Id.*

9. In correspondence to the County, the Independent Monitors provided further detail of the compliance deficiencies, explaining that for many of the action items, the County either failed to provide all required supporting documents and/or the findings and analysis in those materials were deficient. *See* ECF No. [108-1].

10. Due to the County’s failure to meet the requirements of the Third SAP and consistent with the Court’s February 9, 2018 order, the United States requests sanctions be imposed upon the County. The United States requests that the County be required to retain an

appropriate subject matter expert or experts within 30 days to provide regular on-site technical assistance in the areas of correctional medical and mental health care, and to assist the County in implementing the provisions of the Consent Agreement and current Summary Action Plan. The United States and the Independent Monitors will work with the County to identify the appropriate expert(s) to fill this role.

11. The United States has conferred with the County regarding its proposed sanctions, and the County does not oppose them, though the County requests 60 days rather than 30 days to retain the expert or experts because of the time required to identify, interview, select and retain the appropriate individual or individuals.

12. The parties stipulate that the additional relief requested herein complies in all respects with the provisions of 18 U.S.C. § 3626(a). The relief is narrowly drawn, extends no further than necessary to correct violations of federal rights as alleged by the United States in its Complaint and Findings Letter, is the least intrusive means necessary to correct these violations, and will not have an adverse impact on public safety or the operation of the criminal justice system.

13. A proposed order is attached.

Dated: April 30, 2018

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 30, 2018, I electronically filed the foregoing document with the Clerk of Court using CM/ECF and served all parties listed below.

/s/ Megan R. Marks

Megan R. Marks

SERVICE LIST

United States of America v. Miami-Dade County, et al.,

United States District Court, Southern District of Florida
Case No. 13-21570-Civ-Bloom

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