

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

BRANDON SAMPLE, <u>et al.</u> ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 06-715 PLF
)	
Federal Bureau of Prisons, <u>et al.</u> ,)	
)	
Defendants.)	
)	

STIPULATION OF SETTLEMENT AND DISMISSAL

All Parties to this action hereby enter into the following Stipulation of Settlement and Dismissal. In order to resolve the matters in dispute in the above-styled action without further litigation, expense, or delay, Plaintiffs Brandon Sample and Bernard Shaw and Defendants (collectively, the "Parties") unconditionally agree to the following terms:

1. Plaintiffs and Defendants enter into this Stipulation of Settlement and Dismissal in order to make full and final settlement of any and all matters that Plaintiffs raised in the above action. Plaintiffs agree to accept the terms set forth herein in full satisfaction of any and all claims, demands, rights and causes of action of whatever kind and nature based upon, or in any way related to, the allegations in the Complaint¹, including but not limited to, the specific claims

¹Any reference to the "Complaint" in this Stipulation of Settlement and Dismissal encompasses each of the pleadings in the above-styled action, including without limitation the Complaint,

asserted in the Complaint in the above-styled civil action and all claims arising out of the factual circumstances that formed the basis of those claims.

In particular, and without limitation, this settlement includes all possible claims for damages and equitable relief by Plaintiffs against Defendants that relate in any way to the subject matter of the Complaint. Further, and without limitation, the settlement memorialized herein includes all possible claims for attorneys' fees and costs that Plaintiffs incurred or may incur in connection with this litigation and any other proceeding involving the claims Plaintiffs raised in this action.

With one exception, which is described in the ensuing sentence below, Plaintiffs withdraw, with prejudice, the above-styled Complaint and all other pending, existing or putative causes of action, charges, complaints and appeals against Defendants in any forum, whether administrative or judicial, relating to any of the claims before the Court in this matter. Plaintiffs withdraw, without prejudice, their claim in Count Fourteen of the Complaint that relates to "administrative remedy responses from the BOP's [Bureau of Prisons] various institutions, Regional Offices, and Central Office." However, Plaintiffs agree not to re-file in this Court, or any other

the Amended Complaint and the Second Amended Complaint.

judicial forum, their claim in Count Fourteen that relates to "administrative remedy responses" for the duration of their current prison terms. With the exception of the claim in Count Fourteen that relates to "administrative remedy responses," all other claims in Count Fourteen, including but not limited to, the claims that relate to "Disciplinary Hearing Officer reports," "Unit Discipline Committee reports," "Segregation Review Official reports," and "written decisions by the Executive Panel," as well as all other claims in the Complaint, are withdrawn with prejudice. In sum, following the filing of this Stipulation of Settlement and Dismissal, the only claim that Plaintiffs may bring against either Defendant arising out of events that relate in any way to the claims in this litigation is the claim asserted in Count Fourteen of the Complaint that relates to "administrative remedy responses." This Stipulation of Settlement and Dismissal constitutes the full, final and complete relief that Plaintiffs may have for the conduct alleged in this action.

Except for ensuring compliance with the terms of this Stipulation of Settlement and Dismissal as discussed below in paragraph 2(q), Plaintiffs agree not to institute or cause to be instituted any other actions, charges, complaints, appeals or other proceedings against Defendants or any of Defendants' past or present employees, officers, agents or representatives

concerning any claim that relates in any way to the matters raised in the above-styled action for the duration of their prison terms. Moreover, with the exception of the claim in Count Fourteen that relates to "administrative remedy responses," Plaintiffs agree to never again institute, or cause to be instituted, any other actions, charges, complaints, appeals or other proceedings against Defendants or any of Defendants' past, present or future employees, officers, agents or representatives concerning any claim that relates in any way to the matters raised in the above-styled action. Plaintiffs forever release Defendants' past and present employees, officers, agents and representatives concerning all matters related to each and every claim raised in the above-styled action (except, as discussed above, matters relating to the claim in Count Fourteen concerning "administrative remedy responses").

2. In consideration for the promises made herein, the Parties agree to take the following actions:

a) Plaintiff Sample will provide staff at FCI Texarkana with a telephone number for the ten government entities identified in the footnote attached to the end of this sentence, and staff at FCI Texarkana will assist Plaintiff Sample in contacting those entities by telephone.² Specifically, Plaintiff Sample will

² The ten government entities are: (1) the Office of Management and Budget; (2) the Office of Inspector General, U.S. Department of Justice; (3) the Freedom of Information Act/Privacy

provide a single telephone number for each of the ten government entities. Alternate numbers may be provided if a previously provided number fails to result in a completed call. Those ten government entities will be the only entities to which the provisions of this Stipulation of Settlement and Dismissal may apply.

b) Plaintiff Sample will give prison staff at least two weeks notice in advance of the date(s) on which he wishes to make telephone calls to the ten government entities so that prison staff may arrange for appropriate telephone use.

c) Plaintiff Sample's telephone use in accordance with this Stipulation of Settlement and Dismissal will be subject to reasonable limitations to be determined by prison staff aimed at ensuring the safety, security and/or good order of the institution and/or the public.

d) When it is convenient to do so, and as close to the date(s) on which Plaintiff Sample desires to make the telephone calls as possible, prison staff will make a call for Plaintiff Sample to each of the ten government entities using the telephone

Act Office of the U.S. Postal Service; (4) the Occupational Safety and Health Administration; (5) the Environmental Protection Agency; (6) the BOP's Freedom of Information Act Office; (7) the Office of the Pardon Attorney, U.S. Department of Justice; (8) the Centers for Disease Control; (9) the Clerk of the U.S. District Court for the District of Columbia; and (10) the Clerk of the U.S. District Court for the Southern District of Texas.

number(s) that he provides. Prison staff will make a reasonable effort to reach a live person on the telephone line and will inform that live person that the call is originating from a prison, that a prisoner would like to speak with him or her about matters relating to government business, and that he or she may choose to speak with the prisoner or decline the call. Assuming that the person called is willing to speak with Plaintiff Sample, Plaintiff Sample will then be given the telephone and permitted to speak with the person. Once the call has been completed, the BOP's obligation to call that particular entity will have been satisfied. If the person called declines to accept the call, Plaintiff Sample will not be given the telephone and the BOP's obligation to call that particular entity will have been satisfied.

e) All calls will be placed on speaker phone and prison staff will remain in the room for the duration of each call.

f) Prison staff will make only three attempts to contact each of the ten government entities on behalf of Plaintiff Sample and once staff has made contact with a live person at a particular entity associated with a telephone number provided, the BOP's obligation to call that particular entity will have been satisfied.³ If the BOP makes three attempts to call a

³ As stated above, the general rule is that once the BOP makes contact with a live person at a particular entity, its obligation to call that particular entity will have been

particular entity on behalf of Plaintiff Sample and those three attempts are unsuccessful, the BOP's obligation to call that particular entity will have been satisfied. Plaintiff Sample may provide prison staff with alternate telephone numbers if a previously provided number fails to result in a completed call; however, prison staff remain limited to three call attempts per entity. Plaintiff Sample may not provide prison staff with alternative government entities to contact.

g) Each telephone call envisioned by this Stipulation of Settlement and Dismissal will be limited to fifteen minutes in duration in accordance with BOP Program Statement 5264.08, Inmate Telephone Regulations. Plaintiff will be billed at the prevailing rate for time and charges for each call.

h) Nothing in this Stipulation of Settlement and Dismissal gives Plaintiff Sample a mechanism to receive incoming calls.

i) Plaintiff Sample will be permitted to view electronically the compact disks currently in his inmate file (i.e., the disks in his inmate file as of the date of the filing of this Stipulation of Settlement and Dismissal), any updates of those

satisfied. The only exception to that rule is that if the BOP makes contact with a live person who instructs the BOP to call back at a later time or using a different telephone number, the BOP will have an obligation to do so. In this situation, however, the initial contact with the live person will count as one of the BOP's three attempts to contact the entity, as will any subsequent calls. The overarching rule that the BOP will make only three attempts to contact each of the ten entities is not affected by the aforementioned exception.

disks that he may receive in the future and any other compact disks containing responsive FOIA material that the BOP may permit him to receive/gain access to in the future, consistent with the safety, security and orderly administration of the prison and its prisoners and staff, the safety and security of the public and/or any other valid penological interest. However, Plaintiff Sample's ability to view electronically the aforementioned disks will at all times be contingent upon the availability of prison staff and resources. Prison staff will make a good faith effort to accommodate Plaintiff Sample's requests to view electronically the aforementioned disks. As part of this Stipulation of Settlement and Dismissal, the BOP agrees to provide Plaintiff Sample with periodic updates of the disks currently in his inmate file at no cost to Plaintiff Sample. However, updates of those disks will not be provided automatically. Plaintiff Sample must request all updates by submitting a request to the BOP Freedom of Information Act ("FOIA") office. After Plaintiff Sample receives an updated disk from the BOP, he must initiate shipment of the outdated disk to an address of his choosing, at his expense (the BOP will provide an updated disk to Plaintiff Sample at no cost to Plaintiff Sample, but Plaintiff Sample must bear all costs associated with the removal of the outdated disk from his inmate file).

j) Plaintiff Sample will be permitted to submit FOIA

requests through the Trustfund Limited Inmate Communications System (Trulincs). Plaintiff Sample also will be permitted to submit inquiries regarding previously-submitted FOIA requests through Trulincs. Plaintiff Sample will not be permitted to submit FOIA requests, or inquiries regarding FOIA requests, either directly or indirectly, on behalf of any other person through Trulincs. Plaintiff Sample must mail a signed request to the BOP FOIA office to receive any of his own personal information.

k) The BOP will agree to explore the feasibility of placing administrative remedy responses on the internet (in the BOP's electronic reading room). The BOP will make a single report of its feasibility findings to Plaintiffs Sample and Shaw within one year of the filing of this Stipulation of Settlement and Dismissal.

l) In the event that Plaintiff Sample is transferred from FCI Texarkana to another prison camp, the BOP will make a reasonable effort to apply the terms of this settlement that are unique to Plaintiff Sample to Plaintiff Sample in the prison camp into which he is transferred. The settlement terms herein unique to Plaintiff Sample may apply only to the extent that Plaintiff Sample is incarcerated in a prison camp; they cannot apply if Plaintiff Sample is transferred to a higher security prison.

m) The terms of this Stipulation of Settlement and Dismissal

will not be in effect while Plaintiffs are in transit or otherwise in holdover status.

n) The BOP's performance of this Stipulation of Settlement and Dismissal may be suspended while institution staff are responding to an emergency situation.

o) In the event Plaintiff Sample is placed in the Special Housing Unit at FCI Texarkana, prison staff cannot accommodate his access to a computer. Staff will, however, make reasonable efforts to apply the other provisions of this Stipulation of Settlement and Dismissal while Plaintiff Sample is in the Special Housing Unit, depending on the availability of resources, space and staff.

p) Defendants' obligations under this Stipulation of Settlement and Dismissal are limited to, and in effect for, only the current term of Plaintiffs' incarcerations.

q) If Plaintiffs believe that the BOP is not in compliance with any provisions of this Stipulation of Settlement and Dismissal, they will first avail themselves of the BOP's administrative remedy procedures in order to have the matter reviewed internally. If, upon completion of that process, Plaintiffs are not satisfied, they may seek enforcement of the term(s) of this Stipulation of Settlement and Dismissal with this Court, which shall retain jurisdiction of this matter solely to enforce the terms of this Stipulation of Settlement and

Dismissal, consistent with the security of the institution(s) where Plaintiffs are housed.

3. This stipulation for compromise settlement shall not constitute an admission of liability or fault on the part of Defendants or their past or present agents, employees, representatives or officers. The Parties enter into this Stipulation of Settlement and Dismissal solely for the purpose of compromising disputed claims and avoiding the expenses and risks of litigation.

4. Plaintiffs each acknowledge that they have read this entire agreement and that they understand all of its terms and conditions.

5. Plaintiffs each acknowledge that they have entered into this Stipulation of Settlement and Dismissal voluntarily. Further, Plaintiffs each acknowledge that no one has imposed any undue hardship, duress or coercion in connection with the execution of this document.

6. The Parties agree that the terms expressly recited herein represent the entire compromise settlement and that the respective parties will each bear their own costs, fees, expenses and attorneys' fees. There are no terms or conditions to this Stipulation of Settlement and Dismissal except those expressly stated herein. This agreement may not be altered, modified, withdrawn, waived, rescinded or supplemented except by a written

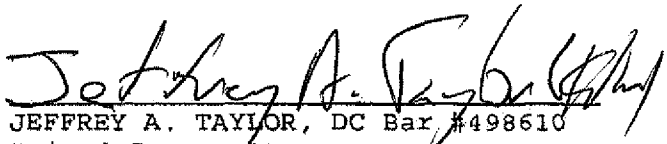
instrument executed by duly authorized representatives of the Parties or by the Parties themselves.

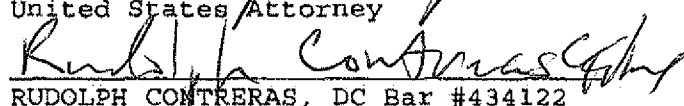
WHEREFORE, the above-styled action is hereby dismissed pursuant to the terms set forth herein, subject only to the Court retaining jurisdiction as necessary to enforce the terms of this Stipulation of Settlement and Dismissal.

Respectfully submitted,


BRANDON SAMPLE
Plaintiff


BERNARD SHAW
Plaintiff


JEFFREY A. TAYLOR, DC Bar #498610
United States Attorney


RUDOLPH CONTRERAS, DC Bar #434122
Assistant United States Attorney


CHRISTOPHER B. HARWOOD
Assistant United States Attorney

SO ORDERED, this _____ day of _____, 2008.

UNITED STATES DISTRICT JUDGE