

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Elliot Holly,

Plaintiff,

v.

Deborah Konieska and Mike Smith,

Defendants.

Civil File No. 04-1489 (JMR/FLN)

ORDER

The above-entitled matter was considered by this Court.

WHEREAS, Plaintiff Elliot Holly filed a Second Amended Complaint in this matter on April 22, 2008, against Deborah Konieska and Mike Smith [Doc. No. 74].

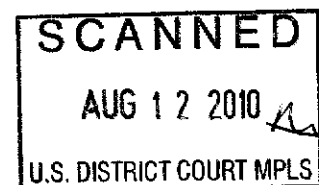
WHEREAS, on June 17, 2010, a jury returned a verdict in favor of Plaintiff and against Deborah Konieska, and found no liability with regard to Mike Smith [Doc. No. 233].

WHEREAS, on June 23, 2010, judgment was entered on the jury verdict [Doc. No. 235].

WHEREAS, on June 28, 2010, Deborah Konieska filed a post-trial motion under Rules 50 and 59 of the Federal Rules of Civil Procedure [Doc. No. 237].

WHEREAS, Deborah Konieska is an employee of the Minnesota Sex Offender Program ("MSOP"), which is overseen by the Minnesota Department of Human Services ("DHS").

Based upon all the files, records, documents, and exhibits and proceedings herein, the Court makes the following:



ORDER

IT IS HEREBY ORDERED THAT:

1. An amended judgment shall be entered upon filing of this Order, which shall replace and amend the judgment entered on June 23, 2010 [Doc. No. 235].
2. Deborah Konieska and Mike Smith are dismissed from the above-entitled case and they shall have no liability with respect to Plaintiff's claims asserted in the Second Amended Complaint.
3. MSOP shall contribute Three Thousand, Six Hundred dollars (\$3,600) per year for three (3) years to Plaintiff's canteen account. If Plaintiff is transferred from MSOP to another facility, any amounts remaining in Plaintiff's MSOP canteen account will be transferred to an account accessible by Plaintiff at his new facility and any additional amounts payable under this provision will also be contributed to that account.
4. MSOP shall pay Plaintiff Thirty Thousand dollars (\$30,000).
5. All amounts paid to Plaintiff pursuant to paragraph numbers 3 and 4 of this Order shall not be subject to any order or claim for reimbursement or recovery by the State of Minnesota or any of its agencies or facilities for payment of the cost of care, room and board, or other state-provided services pursuant to Minn. Stat. § 246B.07 to 246B.10, Minn. Stat. § 246.50 to 246.55, Minn. Stat. § 243.23 to 243.241, any rules promulgated pursuant to the aforementioned statutes, or any other legal theory.
6. MSOP shall pay reasonable attorney's fees to Plaintiff's counsel, the law firm of Briggs and Morgan, P.A., in an amount to be determined by the Court not to

exceed Four Hundred Thousand dollars (\$400,000). Briggs and Morgan will file an affidavit and motion in support of its request for attorney's fees.

7. MSOP shall incorporate the terms and conditions attached hereto as Exhibit A into its Administrative Restriction policy within forty-five (45) days of the date of this Order.

8. Within forty-five (45) days of the date of this Order, MSOP shall develop an HRB policy for clients to reference and shall revise its HRB handout in accordance with paragraph O of Exhibit A attached hereto.

9. By oral order of this Court on August 4, 2010, MSOP was ordered to release Plaintiff from MSOP's High Security Area immediately. MSOP shall follow the terms and conditions attached hereto as Exhibit A with respect to Plaintiff to the extent that Plaintiff's future conduct, if any, may result in administrative restriction status.

10. To the extent that Plaintiff is placed in the High Security Area (or the equivalent level of restriction in another area of the facility) following entry of this Order, a licensed psychologist or psychiatrist shall be available to meet with Plaintiff for at least 30 minutes for every 30 days that Plaintiff remains in the High Security Area (or equivalent level of restriction in another area of the facility). The purpose of these meetings shall be to address Plaintiff's mental health concerns, if any, as well as any concerns related to the conditions of Plaintiff's confinement. All such meetings and any concerns raised by Plaintiff during such meetings shall be documented in Plaintiff's treatment records. If Plaintiff refuses to meet with the psychologist or psychiatrist, Plaintiff's refusal will be documented in his treatment records.

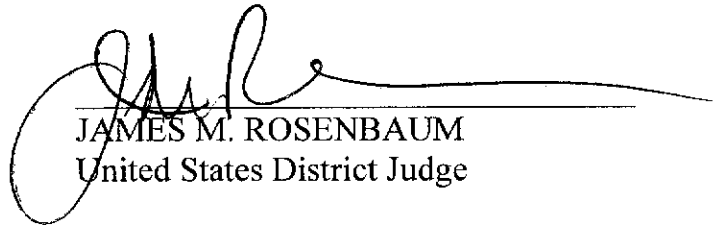
11. This Order applies to and fully adjudicates any and all claims of Plaintiff connected with or arising out of the allegations in Plaintiff's Second Amended Complaint in the above-entitled case and connected with or arising out of Plaintiff's Administrative Restriction Status at any time up to and including the date of this Order, including but not limited to any and all claims against Deborah Konieska, Mike Smith, and MSOP, and Plaintiff's claims are dismissed with prejudice, in their entirety.

12. This Court shall retain continuing jurisdiction over the terms of this Order.

LET AMENDED JUDGMENT BE ENTERED ACCORDINGLY.

Dated: August 11, 2010

August 11, 2010


JAMES M. ROSENBAUM
United States District Judge