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Criminal Justice Issues and Prisoners' Rights

<https://solitarywatch.org/2016/06/10/settlement-in-11-year-lawsuit-promises-relief-from-abuse-for-mentally-ill-in-south-carolinas-prisons/>

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by [Sarah Blatt-Herold](#) | June 10, 2016

On May 31, 2016, a settlement was released in the longstanding class-action lawsuit between South Carolina-based Protection and Advocacy for People with Disabilities Inc (P&A) and the South Carolina Department of Corrections. If approved by a judge, the settlement would benefit the approximately 3,500 individuals with mental illness incarcerated in South Carolina. P&A and SCDC jointly released a remedial plan that would bring an end to eleven years of fervent litigation.

The case began in 2005 when P&A filed suit against SCDC for its negligence in mental health treatment behind bars. In 2012 the case went to trial and Judge Michael Baxley heard testimony on behalf of those who had suffered even died in South Carolina prison cells.

One such story was that of [Jerome Laudman](#), who in 2008 was found lying face-down in a pile of feces and vomit alongside moldy food trays. He was naked and unresponsive, and for eleven days guards refused to enter the cold, smelly cell. They later instructed two other prisoners to remove him, and he was transferred to a hospital where his body temperature indicated hypothermia. He died of a heart attack soon after. Laudman's story was one of many shared during the proceedings.

In 2014, Judge Baxley ruled in favor of the plaintiffs, stating that SCDC's negligence in providing mental health care was unconstitutional. He deemed South Carolina prison conditions cruel and unusual punishment and ordered SCDC to submit a remedial plan adhering to specific standards.

And now, two years later, that plan has been released.

Solitary Confinement and Neglect in South Carolina Prisons

The 3,500 individuals suffering from mental illness in South Carolina's prisons are at a higher risk of being sent to solitary, and for longer durations. Jerome Laudman, when found face-down in his own feces shortly before his death, had just begun serving the first few of his 999 days in confinement. The average time spent in isolation for a mentally ill inmate is 647 days. The average time for a non-mentally ill inmate is 383 days. According to Judge Baxley's eventual ruling: [Of the ten longest periods of disciplinary detention sentences beyond projected release dates, nine of the inmates were mentally ill.](#)

As the suit documented, solitary confinement cells in South Carolina are often freezing and filthy, with [feces and blood](#) coating the concrete floors and walls, leftover from previous occupants.

In South Carolina, disciplinary segregation has been used not only to punish prison rule violation, but as an abusive warehouse for the most severely mentally ill inmates, and as a form of retaliation. According to the *New York Times*, Jerome Laudman's schizophrenic and intellectually disabled was not [violent or threatening](#) when guards isolated him. The videotape of his transfer, during which he was reportedly sprayed with chemicals and physically abused, is blank.

An article in the *Atlantic* notes that conditions in South Carolina prisons [remarkably worsened in 1990 when Michael Moore](#), a prison administrator from Texas, moved to South Carolina and instituted drastic reforms, cutting psychiatrists' jobs and mental health care programming. When he left in 1999, the measures were never reversed and conditions continued to worsen.

Until P&A sued the SCDC in 2005, no measures had been taken to reform prisons or increase mental health care for incarcerated individuals, despite the state's knowledge of its fatal practices.

The Abuses Go on Trial

The lawsuit, officially filed in 2005 although first brought to a law firm in 2002, went to trial in 2012. The plaintiffs produced expert witness testimony, finding that incarcerated individuals suffering from mental illness [were almost twice as likely as other prisoners to go to solitary.](#)

They also shared the stories of those who had suffered harm in South Carolina prisons. Correctional officers used force against mentally ill [James Howard](#) eighty-one different times. After [Baxter Vinson](#) cut himself in the abdomen, staff tied him to a restraint chair for two hours instead of taking him to a hospital. Video footage shows his intestine protruding and staff tightening the restraints around his abdomen. After restraining mentally ill [Shawn Wiles](#) in a twisted position and soaking him with water, officers then left Wiles outside in the cold for an hour. Some were tied up in an uncomfortable position called the crucifix, while others were left unsupervised and committed suicide.

The attorneys representing SCDC argued that stories such as these were mere outliers and not representative of mental health care in the South Carolina prison system. Additionally, they contended [that the court did not have the authority to tell the state prison system what to do](#).

P&A argued that SCDC was exposing incarcerated individuals to cruel and unusual punishment, was aware of this reality, and had done nothing to prevent this treatment.

After two years in trial, Judge Baxley sided with the plaintiffs. In doing so, Judge Baxley did more than assert the unconstitutionality of South Carolina prisons; he shed light on the sheer immorality of the SCDC's actions. Of his 70,000 cases during 14 years on the bench, Baxley said, he found this case [the most troubling](#).

Judge Baxley wrote, If 17 percent of the prison population had advanced cancer and there was inadequate and in some cases nonexistent treatment for cancer in prison, the public would be outraged. Yet this is the case for serious mental illness.

The judge based his review of the South Carolina prison system on [six criteria](#) that he orders the SCDC to include in its remedial plan: a systematic program for identifying those in need of mental health care, comprehensive mental health treatment that prohibits inappropriate segregation for mentally ill inmates, employment of a sufficient number of mental health professionals, maintenance of mental health treatment records, supervised administration of medication and periodic evaluation, and a program for individuals at risk of suicide.

In his [ruling](#), Judge Baxley wrote, from 1999 until the filing of this action in 2005, SCDC did virtually nothing to address, much less eliminate, the substantial risks of serious harm to which class members were exposed. He calls the SCDC's actions deliberate indifference. For more than ten years they knew and did nothing.

Rejecting SCDC's claim that the stories shared throughout the trial are anecdotal outliers, Judge Baxley asserted that these incidents [are the result of a system that is inherently flawed in many respects, understaffed, underfunded, and inadequate](#).

Eight years into litigation, Baxley condemned SCDC for fighting this case [tooth and nail](#). In his conclusion, he noted that justice in this case is not really about who wins or loses this lawsuit.

Details of the Settlement

On May 31, P&A and the SCDC released a mutual settlement that awaits a judge's approval. If approved, it marks the end of eleven years of battle over mental health care in South Carolina prisons.

The implementation of the remedial plan would be a collaborative effort between the groups, providing the plaintiffs [the opportunity to review, comment on, and if necessary, mediate or arbitrate \[...\] acts or omissions](#). The settlement calls for an independent process that will monitor the implementation of the plan, which is expected to take place over the course of several years and adhere to specific directives such as hiring staff, renovating facilities, and providing specific mental health care services outlined in the settlement.

Most notably, the settlement strives to meet the six criteria outlined in Judge Baxley's ruling, such as proposing a program that identifies, treats and supervises individuals at risk of suicide and ending isolation for individuals suffering from mental health crises.

The settlement will cost SCDC a one-time sum of \$1.7 million and another \$7 million annually. But these costs may well be offset by a reduction in solitary confinement, which cost on average [three times as much](#) as general population housing. When Mississippi reduced its isolated population, [the state saved \\$5 million in the process and violent incidents dropped](#).

P&A Executive Director Gloria Prevost and SCDC Director Bryan Stirling agree that the settlement is an important milestone on the road to reform. Prevost credits the SCDC's willingness to compromise to Governor Haley's appointment of Stirling as Director.

Upon release of the settlement, Prevost called it [an historic day for justice](#). Stirling commented that the settlement [marks the end of one chapter and the beginning of another](#), initiating what he hopes will be a culture-change in the South Carolina prison system.

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September 29, 2022

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