

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

DE'JUAN THOMAS,
Plaintiff

V. 3:17-cv-01595-SDD-EWD

SALLY GRYDER, JAMES LEBLANC,
JERRY GOODWIN, DOES 1-10
Defendants

BRIAN McNEAL,
Plaintiff

V. No. 18-cv-00736-JWD-EWD

LOUISIANA DPS&C, et al
Defendants

ELLIS RAY HICKS,
Plaintiff

V. No. 19-108-SDD-RLB

LOUISIANA DPS&C, et al
Defendants

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

RODNEY GRANT,
Plaintiff

V. Case No.17-cv-2797-NJB-DEK

MARLIN GUSMAN, et al
Defendants

1 DEPOSITION OF SECRETARY JAMES LEBLANC,
2 given in the above-entitled causes, pursuant to
3 the following stipulation, before Raynel E.
4 Schule, Certified Shorthand Reporter in and for
5 the State of Louisiana, at the Louisiana
6 Department of Public Safety and Correction, 604
7 Mayflower Street, Baton Rouge, Louisiana, 70802,
8 commencing at 10:00 o'clock a.m., on Thursday,
9 the 23rd day of May, 2019.

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1 APPEARANCES:

2 For the Plaintiffs:

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and

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And

19

JONATHAN R. VINING

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23 Also Present: Stephen Geist

24 Reported By: Raynel E. Schule

Certified Shorthand Reporter

25 State of Louisiana

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S T I P U L A T I O N

It is stipulated and agreed by and among Counsel for the parties hereto that the deposition of SECRETARY JAMES LEBLANC is hereby being taken pursuant to the Federal Rules of Civil Procedure for all purposes in accordance with law;

That the formalities of reading and signing are not specifically waived;

That the formalities of sealing, certification, and filing are hereby specifically waived.

That all objections, save those as to the form of the question and responsiveness of the answer, are hereby reserved until such time as this deposition or any part thereof is used or sought to be used in evidence.

* * * * *

Raynel E. Schule, Certified Shorthand Reporter in and for the State of Louisiana, officiated in administering the oath to the witness.

1 SECRETARY JAMES LEBLANC, having been
2 first duly sworn by Raynel E. Schule, was
3 examined and testified on his oath as
4 follows:

5 EXAMINATION

6 BY MR. MOST:

7 Q. Good morning, Secretary.

8 A. Good morning. How are you?

9 Q. I'm doing well, thanks. Yeah. My name as
10 you know is William Most. I represent the
11 Plaintiffs in the four cases that we're
12 here for today, which is Thomas v Gryder,
13 McNeal v Louisiana Department of Public
14 Safety & Corrections, Hicks v Louisiana
15 Department of Public Safety & Corrections,
16 and Grant v Gusman.

17 MR. MOST:

18 Mr. Evans, can we stipulate that
19 the deposition was properly noticed,
20 and the court reporter is duly
21 qualified?

22 MR. EVANS:

23 We can -- we can stipulate that it
24 was properly noticed; however, for the
25 -- for the document requests other than

1 and Pardon and Parole Board. Is that
2 right?

3 A. That's correct, and -- and Juvenile
4 Services -- OJJ, Juvenile Services.

5 Q. So what you operationally over -- oversee
6 includes corrections, probation and parole,
7 Prison Enterprises, correct?

8 A. Correct.

9 Q. Okay. As Secretary, you're responsible for
10 the inmates sentenced to the custody of the
11 DOC, correct?

12 A. Correct.

13 Q. Whether or not they're in a state-run
14 facility, a parish-run facility, or
15 private-facility. Is that correct?

16 A. Correct. That's correct.

17 Q. And if the Department of Corrections has a
18 legal duty to do something with regards to
19 an inmate, it's your job as Secretary to
20 make sure that happens, correct?

21 A. Correct.

22 Q. For example, the Department of Corrections
23 has a legal duty to feed its inmates,
24 right?

25 MR. EVANS:

1 you as Secretary?

2 A. It -- yeah, it does, and but there are
3 other parties that are involved in that
4 responsibility.

5 Q. It's the Department of Corrections' duty to
6 timely release inmates, correct?

7 MR. EVANS:

8 Object to form.

9 You can answer.

10 THE WITNESS:

11 It -- yeah, it is. It's -- it's
12 our responsibility along with the Clerk
13 of Courts, along with the Judges, and
14 along with the Sheriffs Association.

15 BY MR. MOST:

16 Q. And the department is -- of corrections is
17 legally bound to release inmates on their
18 release date, correct?

19 MR. EVANS:

20 Object to form.

21 You can answer.

22 THE WITNESS:

23 Yes.

24 BY MR. MOST:

25 Q. For example, the Department can't release

1 You can answer.

2 THE WITNESS:

3 It's -- it's a problem.

4 BY MR. MOST:

5 Q. Okay. Thousands of inmates being held past
6 their release date. Do you not think it's
7 a big problem?

8 A. I think I just said it's a problem.

9 Q. It's a problem. Do you think it's a big
10 problem?

11 A. I -- I think -- yeah, I mean, I think it's
12 a problem. I -- I mean, I don't know how
13 you define "big."

14 Q. In your opinion is this a big problem?

15 A. What's big?

16 Q. Just in your own -- in your own belief?

17 A. I think it's -- yeah, it's a big problem.

18 Q. Okay. So look at the next page, which is
19 entitled, "Financial Impact of Reducing
20 Immediate Releases & Transfers." You see
21 that?

22 A. Yep.

23 Q. And you see it says, "The # of Immediate
24 Releases has been reduced to a rate of 1612
25 per year," right?

1 Sigma Interventions, we've still got people
2 being held an average of about two months
3 past their release date, correct?

4 A. Correct.

5 Q. Okay. Now, flip a couple of pages in to
6 the topic that says, "Lessons Learned."
7 The third bullet point says,
8 "Inconsistencies in the quality of the work
9 today requires 100% review by the
10 Supervisor." You see that?

11 A. I do.

12 Q. So through this Six Sigma investigation,
13 you found out there were problems with the
14 work -- that the quality of the work that
15 the time calculation people were doing,
16 correct?

17 A. That's what it looks like, yeah.

18 Q. Okay. Is that what you learned from this
19 investigation?

20 A. Well, if it was in there, but remember now,
21 this -- this -- the Chief of Operations,
22 the Deputy Assistants, there's -- I mean,
23 they're more involved in these reports than
24 me.

25 Q. Sure.

1 documentation, I can't release them.

2 That's what I learned.

3 Q. But you learned that thousands of people in
4 the custody of the Department of
5 Corrections for whatever reason were being
6 held past their release date, correct?

7 A. I did.

8 Q. Did anyone get fired at the Department of
9 Corrections because of that?

10 A. No, because it -- it wasn't -- you know,
11 people have been fired over time because of
12 -- of miscalculations, but no, nobody got
13 fired over that because it wasn't just our
14 fault.

15 Q. Did anyone get demoted?

16 A. Not that I'm aware of.

17 Q. Anyone get their dock -- their pay docked?

18 A. I mean, since -- you're -- you're talking
19 about that day?

20 Q. As a result of this investigation.

21 A. No, no, not -- that wasn't an
22 investigation.

23 Q. What do you call the --

24 A. That's a study.

25 Q. Okay. Did anyone get their pay docked as a

1 result of this study?

2 A. No.

3 Q. A reprimand of any kind?

4 A. No.

5 Q. Okay.

6 A. Again, not that I'm aware of. There's --

7 Q. Sure.

8 A. -- four people between me and -- and that
9 group, so if they did, I wasn't aware of
10 it.

11 Q. Okay.

12 A. That's probably a better answer. I'm not
13 aware of anybody being --

14 Q. Yep, and I can only ask you what you're
15 aware of so. Okay. So let's try and
16 figure out from this document where the
17 delay came from. Will you look at that
18 page that says, "Statewide Vitals Pre &
19 Post LSS."

20 A. Where are you in the document?

21 Q. It's sort of in the -- the middle. It's --

22 A. Statewide Vitals again?

23 Q. Yeah, the first page that says, "Statewide
24 Vitals."

25 A. All right.

1 were dealing -- during -- during between
2 2008 and 2016, '17, we -- we were taking
3 200 million dollars in cuts and lost four
4 prisons and 2000 employees. My focus is --
5 is surviving, you know, and, you know,
6 there's a lot of things going on besides
7 figuring time for me. I mean, you know,
8 you have -- I hope you understand that, and
9 but, you know, it's not like we -- we're
10 trying to avoid this issue. We want to --
11 we want to fix this issue, and we -- we
12 have made every attempt at -- at fixing
13 this issue so --

14 Q. And one thing you said that you may do in
15 the future, but haven't done in the past is
16 send -- is actually go out and get the
17 paperwork --

18 A. Yeah.

19 Q. -- the Department of Corrections itself?

20 A. Yeah, that's right. That's right, and --
21 and we -- we need reception centers to do
22 that. I opened a new reception center to
23 -- to take in the five, but there -- it
24 wasn't just about the paperwork. It was
25 about bringing people in and evaluating who

1 A. Good.

2 Q. And we'll definitely have you out of here
3 for your GOHSEP meeting for sure with time
4 to spare.

5 A. Couple of these I've circled I want.

6 MR. EVANS:

7 Well, these are our copies.

8 MR. VINING:

9 We -- we can talk when it's over.

10 THE WITNESS:

11 Yeah.

12 BY MR. MOST:

13 Q. Okay. So this is a document that says,
14 "Frequently Asked" corrections, right --
15 "Questions."

16 A. Okay.

17 Q. Does this appear to be the frequently asked
18 questions webpage from the Department of
19 Public Safety's website?

20 A. It does, but let me say this that we are
21 developing a new website.

22 Q. Okay.

23 A. It's being rebuilt as we speak. We have
24 hired somebody, and we're hoping this is
25 going to be a much improved website once we

1 finish it, even though Senator Claitor
2 always brags on our -- our website, but --
3 he brags on information that he get's off
4 of our website.

5 Q. Huh-huh.

6 A. But anyway, I'm -- I'm sorry, go ahead.

7 Q. So Page 3, at the top of Page 3 --

8 A. Yeah.

9 Q. -- it says, "If a person has recently been
10 sentenced to DOC custody, it can take up to
11 12 weeks to calculate a date as the
12 Department has to receive official
13 paperwork from the sentencing court in
14 order to calculate the offender's release
15 date." Do you see that?

16 A. I do.

17 Q. Do you have any reason to believe that's
18 wrong?

19 A. Well, I have reason to believe that's in
20 there because it's -- it's for those people
21 that might have 20 years to do and that we
22 get the phone calls from family members
23 that just over -- you know, just inundates
24 us with -- with requests for when they're
25 going to get out, and I'm not sure that

1 that -- that -- 12 weeks is ridiculous. I
2 mean, I -- I saw this somewhere. I -- I've
3 seen this before, and I haven't fixed that
4 yet, but that's something we need to
5 address too. I mean, that's just absurd.

6 Q. Do you have any reason to believe that
7 short timers' time computation is
8 prioritized a lot of times?

9 A. You know, I -- I -- I thought it was. I
10 mean, to my understanding that it is, but I
11 -- you know, again, I -- I have to defer to
12 Chief and -- and Derrick the assistant --
13 the Deputy Assistant Secretary and them.

14 Q. And if it's not prioritized, that would be
15 a problem?

16 A. Yeah, I mean, I think it is. Yeah, I mean,
17 obviously they -- those are the ones that
18 we need to put on top the stack if you
19 will.

20 Q. Okay. That was part of the problem in the
21 Six Sigma report is that you had a stack
22 that was 1400 inmates high, right?

23 A. Yeah.

24 Q. Okay. Okay. Do you recall that in 2003,
25 the State of Louisiana paid \$125,000 to an

1 they -- they try to say that we were -- but
2 we -- we -- we balance that every month
3 paying wise. When we pay our bills, we
4 make sure we're not double paying, and --
5 and so all that's reconciled at -- at some
6 point, but it is -- it's -- it's a
7 challenge to keep up with them at the local
8 level, and I think we have a handle on it.

9 Q. So it's relatively common that the
10 Department of Corrections thinks an inmate
11 is in one place, but actually they're in
12 another, correct?

13 A. Well, I mean, I -- you know, I'm not sure
14 that we're thinking about where an inmate
15 is at the local level. We know that he's
16 in a jail somewhere and locked up. I mean,
17 he's -- he's okay. It's not a public
18 safety issue. So, you know, yeah, I mean,
19 I guess the answer to that question would
20 be yes, but it's not something that we
21 perceive as a major problem.

22 Q. Okay. So one of the things you mentioned
23 today that the DOC could do to mitigate the
24 problem of people being held past their
25 release date is for the DOC to go out and

1 get the paperwork itself rather than just
2 waiting to receive it, right?

3 A. For DOC to get it versus a sheriff, not
4 really concerned about it. You know, and
5 that's -- that's -- that's the difference.

6 Q. Right.

7 A. Yeah. So yes.

8 Q. What other things could be done to mitigate
9 this problem?

10 MR. EVANS:

11 Object to form, but you can
12 answer.

13 THE WITNESS:

14 Well, I -- I think the
15 modernization of our system is -- is --
16 is going to help a great deal. I think
17 the Uniform Commitment Order, I -- I
18 think that -- I mean, to me that's the
19 way to resolve this if we could get
20 everybody on the same page, and we get
21 a Uniform Commitment Order, not have to
22 worry about what the sentencing minutes
23 say and what this says and trying to
24 compare, and they don't ever agree
25 seems like most of the time, and that's

1 know, I mean, to me that -- that -- that --
2 that's -- that's a -- that's part of the
3 resolution, and -- and I think this web
4 portal with this grant where we can
5 communicate, where, you know, everybody
6 right now is on different systems, and you
7 know that better than I do probably, but --
8 but getting everybody in a portal, and I
9 don't understand web-based portals, but if
10 everybody can communicate electronically to
11 us, then that along with the Uniform
12 Commitment Order, I think that would be a
13 -- a -- a fix in my opinion.

14 Q. Do you talk to other heads of other states'
15 departments of corrections?

16 A. You know, I haven't -- the -- the issue
17 with, and -- and I'm -- no, I haven't and
18 -- and -- and we are looking at -- right
19 now we are looking at what software is
20 being used in other states. We -- we --
21 we've began that process, and we probably
22 maybe should have started that a little
23 sooner, but their -- their issues are not
24 nearly as complex or challenging as ours
25 because of the local jail situation. I

1 think Kentucky is the closest one to us
2 that has people in local jails, but
3 ultimately they end up in a state facility.
4 They don't leave them there and discharge
5 from there. So our -- our challenges with
6 time computation is so much different than
7 -- than the other states, but there's no
8 reason why we can't at least see what's
9 going on and -- and if we can't -- I think
10 this web portal thing is maybe when we
11 start looking around, and -- and finding
12 out what's going on, but I don't know how
13 much information we've gotten so far, but
14 we are looking at other states right now.

15 Q. Do you know of any other state that has the
16 magnitude of an issue with people being
17 held past their release dates that
18 Louisiana has?

19 A. No, and I -- I think -- I think the
20 majority of these cases is going to be in
21 local jails.

22 Q. Okay.

23 A. And that's -- that's -- that's the
24 difference.

25 Q. You had a meeting on March 25th with the