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20 SUPERIOR COURT OF ARIZONA
21 COUNTY OF MARICOPA

22 JANE DOE, individually and on behalf of all)
23 others similarly situated,)

24 Plaintiffs,)

25 vs.)

26 JOE ARPAIO, MARICOPA COUNTY)
SHERIFF, in his official capacity;)
MARICOPA COUNTY,)

Defendants.)

No. CV2004-009286

**STIPULATION OF PARTIAL
SETTLEMENT AND PROPOSED
SCHEDULING ORDER**

(Assigned to Hon. Robert Oberbillig)

19 On August 6, 2008, Plaintiffs filed a Motion for Contempt and/or For a
20 Modification of the Injunction. The parties have reached a partial settlement on the
21 motion as described below, and request a scheduling order to present legal arguments on
22 the remaining issue that the parties were unable to resolve, namely that Defendants require
23 inmates to prepay transportation and security cost as a condition of accessing abortion
24 care.

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1 The parties hereby stipulate:

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3 Partial Settlement

4 1. On October 27, 2005, this Court entered a permanent injunction prohibiting
5 Defendants “and their representatives, agents, employees, or those persons acting in
6 concert or participation with them . . . from directly or indirectly enforcing the unwritten
7 policy” of requiring an inmate who chooses to terminate her pregnancy to obtain a court
8 order before she will be transported for the abortion “or requiring a pregnant inmate in the
9 Maricopa County jails to obtain a court order before she will be granted transportation to
10 obtain an abortion.”

11 2. Attached as Exhibits A and B are policies adopted by Defendants instituting
12 a formal process for handling inmates’ requests for abortion transport.
13

14 3. Defendants will, within 30 days of the date of this stipulation, notify all
15 detention officers in the form of an entry in a bulletin (“The Briefing Board”) that pursuant
16 to a court injunction no court order is required for a pregnant inmate to obtain transport for
17 an abortion and that the specific instructions for inmates requesting abortion transport are
18 set forth in the Rules and Regulations for Inmates publication and in the Sheriff’s
19 Transportation Division Operational Manual. The relevant policies referred to in the
20 preceding sentence are those attached as Exhibits A and B. Defendants will also repeat the
21 notification in The Briefing Board detailed above six months after this stipulation. After
22 each notification, Defendants will file a declaration of compliance with the Court and
23 serve it on Plaintiffs’ counsel.

24 4. Defendants have notified all employees of Correctional Health Services
25 (“CHS”) who provide services to female inmates in the form of an entry in a bulletin (the
26

1 “CHS Central-Info” bulletin) that pursuant to a court injunction, no court order is required
2 for a pregnant inmate to obtain transport for an abortion and that the specific instructions
3 for inmates requesting abortion transport are set forth in the Rules and Regulations for
4 Inmates publication. Defendants will also repeat the notification in the CHS Central-Info
5 bulletin detailed above six months after this stipulation. Defendants will file a declaration
6 of compliance with the Court and serve it on Plaintiffs’ counsel.

7
8 5. Defendants represent that, until such time as the Rules and Regulations for
9 Inmates are reprinted in their entirety, the policy set forth in Exhibit A will be included as
10 an addendum and distributed to incoming inmates at the Estrella Jail facility, as well as
11 being posted in the inmate living areas at the Estrella Jail. Defendants represent that the
12 policy set forth in Exhibit B will be provided to all personnel assigned to the Sheriff’s
13 Transportation Division and included in the Sheriff’s Transportation Division Operational
14 Manual. Defendants further represent that the policies set forth in Exhibits A and B will
15 not be modified in a manner which would violate the injunction of October 27, 2005.

16 6. Pursuant to the foregoing, and subject to their objection to the prepayment
17 for transportation provision, Plaintiffs withdraw, without prejudice, their request for entry
18 of contempt of court. Plaintiffs will file a motion for summary judgment on the issue of
19 prepayment for transportation for abortion care as indicated in the proposed scheduling
20 order below.

21 7. This stipulation waives neither Plaintiffs’ right to seek attorneys’ fees and
22 costs nor Defendants’ right to oppose such a request, nor Defendants’ right to object to
23 Plaintiffs’ challenge to the policies attached as Exhibits A and B. The parties further agree
24 that Plaintiffs’ deadline to move for fees will not begin to run until after this Court rules on
25 the issue described in the introductory paragraph above.
26

Proposed Scheduling Order

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3 8. The parties respectfully propose the following scheduling order for briefing
4 the unresolved issue of prepayment for transportation and security costs: Plaintiffs'
5 opening brief will be due five days after this stipulation is ordered by the Court;
6 Defendants' opposition brief will be due thirty days after Plaintiffs serve their brief on
7 Defendants; and Plaintiffs shall have twenty days after service of the response to file a
8 reply.

9 Dated: June 19, 2009

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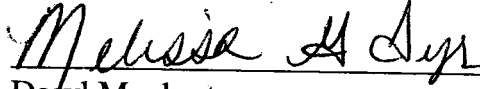
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ORIGINAL Filed and a Copy
Hand-Delivered this 19th day of
June, 2009 to:

Judge Robert Oberbillig
Maricopa County Superior Court
125 West Washington
Phoenix, AZ 85003



EXHIBIT A

320 ABORTION

Transport for therapeutic abortions is provided the same as for other medical procedures determined to be necessary by Correction Health Services. A female inmate who wants to have an elective (non-therapeutic) abortion must follow the procedure in Section 17(C) of the Inmate Rules and Regulations, which is to sign and submit two Patient Healthcare Request Forms (also known as Inmate Medical Request Forms): (1) a Patient Healthcare Request Form to Correctional Health Services requesting confirmation of pregnancy and communication of that confirmation and pregnancy status to the Jail Ward Commander; and (2) another Patient Healthcare Request Form (which CHS will route) to the Jail Ward Commander requesting an abortion transport.

No Sheriff's Office employee will discuss or recommend any abortion clinic, or abortion alternatives, with the inmate. If a Sheriff's Office employee receives an inmate question about an abortion transport, the inmate is promptly to be referred either to Section 17(C) of the Inmate Regulations or to the Jail Ward Commander. The inmate is **NOT** required to act through an attorney nor to obtain a court order for the abortion.

Upon receipt of the Patient Healthcare Request Form, the Jail Ward Commander (which herein shall include a designee of the Jail Ward Commander) will promptly contact the abortion service provider identified by the inmate to schedule a date and time for the abortion. Once the abortion transport has been requested, the Jail Ward Commander will notify in his/her discretion such other personnel (Jail or CHS) as the Jail Ward Commander believes should be notified of any of the information with respect to the inmate in question.

The Jail Ward Commander promptly will notify the inmate, in writing, of a "Deadline" date, which shall be at least one day prior to the scheduled abortion appointment, any special medical instructions or procedures required of the inmate prior to the abortion, and each of the following pre-transport conditions:

- The inmate must have cooperated with Correctional Health Services staff to permit them to confirm the pregnancy by 11:00 a.m. on the Deadline date. The Jail Ward Commander will contact the Nurse Supervisor, Estrella Jail Medical Clinic, to confirm the inmate's pregnancy status and any other information available with respect to the pregnancy.

- The inmate must fully make all financial arrangements required by the abortion service provider by 11:00 a.m. on the Deadline date. The Jail Ward Commander will contact the abortion service provider to confirm that such payment arrangements have been made.
- The inmate must fully pre-pay an advance deposit for the cost of the abortion transport by 11:00 a.m. on the Deadline date. For each day of transport required for the procedure, the advance deposit includes:
 - (1) The amount calculated as the roundtrip mileage for the transport vehicle; and
 - (2) The hourly wage for a minimum of two officers for 4_ hours. If the round trip for the abortion transport takes longer than that estimate, the inmate will be billed for the additional hours incurred to complete the abortion transport.

The inmate will be notified in writing of the amount of the advance deposit, that payment must be accompanied by a reference to the inmate's name and booking number and that payment must be timely deposited on the inmate's behalf to the Inmate Accounts fund or received by the MCSO Finance Division.

The Jail Ward Commander must give final approval for the abortion transport. Only the Jail Ward Commander (or as previously stated, the designee) has the authority to approve or deny an abortion transport. An abortion transport will only be denied for the following reasons:

- The inmate failed to meet one or more of the foregoing pre-transport conditions. In the event that the abortion service provider advises that satisfactory financial arrangements were not timely made, it is recommended that the Jail Ward Commander attempt to obtain from the abortion service provider written verification of that fact.
- The transport would represent an unreasonable security risk for the inmate or staff.

The Jail Ward Commander will promptly notify the inmate, in writing, if the abortion transport is denied and state the reason for the denial.

Any questions that an inmate has about the abortion transport procedure described herein should be directed to the Jail Ward Commander. Only the

Jail Ward Commander has the authority to respond to inmate inquiries regarding an abortion transport.

Following completion of an abortion procedure, the inmate will be housed at the Infirmary for approximately 24 hours for post-procedure care and observation, unless Correctional Health Staff recommend some other protocol. Upon completion of an abortion transport, the transporting officers will complete the "Inmate Transport for Outside Appointments by MCSO" form. This form will be completed electronically and forwarded to their immediate supervisors, the Jail Ward Commander, and the Sheriff's Finance Division.

EXHIBIT B

Section 17

C: ABORTION TRANSPORT

If you are pregnant and do not wish to continue the pregnancy because the pregnancy will present a danger to your life or health, then submit a Patient Healthcare Request Form to Correctional Health Services as described above.

If you are pregnant and you are requesting transport from the jail to obtain an abortion, which you have decided you want even if it is not medically necessary for your life or health, then you are responsible for all costs and the following procedure applies:

1. Submit two (2) Patient Healthcare Request Forms (also known as Inmate Medical Request Forms).

▶ On one Patient Healthcare Request Form, write legibly "I request confirmation of my pregnancy be provided to the Jail Ward Commander," and sign your name on the form which will be your confirmation and authorization to Correctional Health Staff to release this information to the MCSO Jail Ward Commander, including without limitation the status of your pregnancy, last menstrual cycle date, and weeks of pregnancy if known.

▶ On the other Patient Healthcare Request Form, write legibly "I request Abortion Transport," direct the form to "Attention: Jail Ward Commander," and sign your name. A Correctional Health Staff person will route this form to the Jail Ward Commander. Your signature on this form is your authorization to release from your Inmate Accounts Fund all such amounts as charged to you for the abortion transport. Also, state the name and telephone number of the healthcare provider you have selected to perform the abortion. Provide additional information if you are aware of any regarding the healthcare provider's abortion schedule availability. (If you have not selected an abortion services provider, you may use the telephone directory to find one.)

2. Upon your identification of the name and telephone number of the healthcare provider to perform the abortion, the Jail Ward Commander (or designee) will contact that healthcare provider to schedule the abortion. You will be informed, in writing, of any procedures necessary to prepare for the abortion, the advance deposit amount you must pay for the abortion transport (the estimated range is approximately \$ 300.00 for each day required for your procedure), and the Deadline by which you must have both paid the advance deposit to the jail for the abortion transport and made all necessary financial arrangements with the abortion provider.
3. You will be provided transport for the scheduled abortion only if all of the following things have occurred by 11:00 a.m. on the day you were told was the Deadline:

- ▶ Your pregnancy has been confirmed to the Jail Ward Commander by Correctional Health Staff (either by their own pregnancy testing or their receipt of such confirmation from a healthcare provider satisfactory to them); and
- ▶ The Jail Ward Commander has confirmed that you have fully made all financial arrangements for the healthcare provider to perform the abortion; and
- ▶ You have fully pre-paid an advance deposit for the mileage and cost for the transport officers to transport you for the abortion. This deposit (made payable to Maricopa County Sheriff's Office and accompanied by reference to your custody name and booking number) may be paid by:
 - A relative, friend, or other person on your behalf going to the reception desk or control area wherever you are housed and handing to the detention officer on duty (available 24 hours per day/7 days per week) your advance deposit payment in a form permitted by Section 7 of these Rules and Regulations (currency, cashiers check, governmental checks, money orders) with direction to be deposited in your Inmate Accounts Fund.
 - A person on your behalf may place money in your Inmate Accounts Fund using any of the TouchPay Systems services (available 24 hours per day/7 days per week), upon payment of the additional service fee charged by TouchPay Systems -- TouchPay permits payment by credit card (VISA or MasterCard) by Internet (<http://maricopa.touchpaydirect.net>) or by telephone (1-866-355-9593) or payment by cash or credit card at any of the TouchPay kiosks at each jail facility -- the advance deposit amount must be increased by the TouchPay service fee which is deducted from the deposit.
 - Alternatively, at your sole risk of timely receipt and processing, your advance deposit payment may be mailed to:

Maricopa County Sheriff's Office
Attention: Finance Division (Medical Transport)
234 N. Central Ave., 7th Floor
Phoenix, Arizona 85004

4. If you are unable to pre-pay the advance deposit for transport, to minimize delay you should promptly ask your abortion service provider for the contact information of any third-party organizations which might be available to provide financial assistance for abortion related services and promptly contact them. Alternatively, although no court order is required to obtain transport, such a request is available to you if you cannot afford to pre-pay the advance deposit and want to promptly submit an indigency request in your criminal court case stating your reasons for an order from the judge that the required pre-payment be waived and the expenses billed after transport.
5. You will not be provided transport for an abortion unless all of the above in Step 3 have occurred by 11:00 a.m. on the day identified for you as the Deadline. However, you may request that an abortion be rescheduled if you are able to later satisfy all of the requirements.
6. If the procedure and transport take longer than the estimate for the advance deposit for the mileage and cost of the transport officers, the additional expense will be deducted from your Inmate Accounts Fund and/or you will be billed and are responsible for the remainder of the expense incurred. If there is any unapplied part of the advance deposit, that will remain in your Inmate Accounts Fund and disbursed or released as generally applicable to such funds.
7. If you have questions about the procedure described above, then submit a Patient Healthcare Request Form stating: "I want to speak to the Jail Ward Commander about Abortion Transport."
8. If you have a grievance with the procedure or its performance, you may follow the grievance procedure set out in Section 11 of these Rules and Regulations for Inmates.

[Former Section C would then be redesignated as Section D]