

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

RICHARD GLOSSIP, <i>et al.</i> ,)	
)	
Plaintiffs,)	Case No. CIV-14-665-F
)	
vs.)	Joint Stipulation for Administrative
)	Closing of Case
KEVIN J. GROSS, <i>et al.</i> ,)	
)	
Defendants.)	

PLAINTIFFS Richard E. Glossip, James A. Coddington, Benjamin R. Cole by and through his next friend Robert S. Jackson, Carlos Cuesta-Rodriguez, Nicholas A. Davis, Richard S. Fairchild, John M. Grant, Wendell A. Grissom, Marlon D. Harmon, Raymond E. Johnson, Emmanuel A. Littlejohn, James D. Pavatt, Kendrick A. Simpson, Kevin R. Underwood, Brenda E. Andrew, Shelton D. Jackson, Phillip D. Hancock, Julius D. Jones, Alfred B. Mitchell, and Tremane Wood (“Plaintiffs”) and DEFENDANTS Kevin J. Gross, Michael W. Roach, John T. Holder, Gene Haynes, Frazier Henke, Irma J. Newburn, JAMES M. Tilly, Members of the Oklahoma Board of Corrections; Robert C. Patton, Director of the Oklahoma Department of Corrections; Anita K. Trammell, Warden Oklahoma State Penitentiary; Edward Evans, Associate Director of Field Operations; David Parker, Division Manager of East Institutions; Greg Williams, Division Manager of West Institutions; and H-unit Section Chief, IV Team Leader and IV Team Members #1-10, Special Operations Team Leader and Special Operations Team Members #1-10, whose identities are unknown, in their official capacities as Employees, Contractors and/or Agents of the Oklahoma Department of Corrections (“Defendants”) hereby agree and stipulate as follows:

WHEREAS, there is active and ongoing litigation between Plaintiffs and Defendants pending in this Court;

WHEREAS, the State of Oklahoma asked the Oklahoma Court of Criminal Appeals to indefinitely stay the executions of Richard Glossip, Benjamin Cole, and John Marion Grant (Doc. Nos. 250, 250-1); and the Oklahoma Court of Criminal Appeals finding good cause stayed each execution indefinitely (Doc. Nos. 251, 251-1);

WHEREAS, counsel for Plaintiffs and counsel for Defendants have met and conferred by telephone to discuss the continuing litigation in this matter and other related issues;

WHEREAS, this matter should be administratively closed for an indefinite period consistent with the practice in this Court, *see, e.g., Hunter v. Keith*, No. 10-cv-320F, 2010 WL 3960011, at *2 (W.D. Okla. Sept. 7, 2010), *report and recommendation adopted*, No. 10-cv-0320F, 2010 WL 3960770 (W.D. Okla. Oct. 8, 2010);

WHEREAS, it would be in the interests of judicial economy and comity for the Oklahoma Attorney General not to seek an execution date from the Oklahoma Court of Criminal Appeals for any of the Plaintiffs or any other condemned prisoners until after counsel for Plaintiffs are provided the following:

- (a) notice that investigations, known to the Office of the Attorney General, by any local, state, or federal authorities related to execution procedures of the Oklahoma Department of Corrections have been conducted;
- (b) the results, to the extent they are public, of the investigations referenced above in (a);
- (c) notice and copies of amendments, if any, to “Execution of Offenders Sentenced to Death,” OP-040301, effective date June 30, 2015 (“Protocol”); and

- (d) notice that the Oklahoma Department of Corrections will be able to comply with the express terms of the Protocol;

WHEREAS, the Oklahoma Attorney General will not seek an execution date until at least 150 days after Plaintiffs are provided the information described in (a), (b), (c) and (d) above.

WHEREAS, upon being provided the information described in (a), (b), (c) and (d) above, Plaintiffs will have fourteen days to move to reopen the present action. If Plaintiffs fail to timely comply with these requirements, the Court will dismiss the action without prejudice;

WHEREAS, Plaintiffs will have thirty days after moving to reopen this action to amend the Second Amended Complaint (Doc. Nos. 214, 215); and

WHEREAS, Defendants agree not to assert any defenses concerning exhaustion of administrative remedies, statute of limitations, or laches.

IT IS THEREFORE STIPULATED AND AGREED that:

1. This action should be administratively closed for an indefinite period of time.
2. It would be in the interests of judicial economy and comity for the Oklahoma Attorney General not to seek an execution date from the Oklahoma Court of Criminal Appeals for any of the Plaintiffs or any other condemned prisoners until after counsel for Plaintiffs are provided the following:
 - (a) notice that investigations, known to the Office of the Attorney General, by any local, state, or federal authorities related to execution procedures of the Oklahoma Department of Corrections have been conducted;
 - (b) the results, to the extent they are public, of the investigations referenced above in (a);

(c) notice and copies of amendments, if any, to “Execution of Offenders Sentenced to Death,” OP-040301, effective date June 30, 2015 (“Protocol”); and

(d) notice that the Oklahoma Department of Corrections will be able to comply with the express terms of the Protocol.

3. The Oklahoma Attorney General will not seek an execution date until at least 150 days after Plaintiffs are provided the information described in (a), (b), (c) and (d) above.
4. Upon being provided the information described in (a), (b), (c) and (d) above, Plaintiffs will have fourteen days to move to reopen the present action. If Plaintiffs fail to timely comply with these requirements, the Court will dismiss the action without prejudice.
5. Plaintiffs will have thirty days after moving to reopen this action to amend the Second Amended Complaint (Doc. Nos. 214, 215).
6. Defendants agree not to assert any defenses concerning exhaustion of administrative remedies, statute of limitations, or laches.
7. Plaintiffs and Defendants request the Court to enter the attached proposed order to administratively close this case.

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Respectfully submitted this 16th day of October, 2015.

Counsel for Plaintiffs

*s/ Patti P. Ghezzi**

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*Signed by Filing Attorney with Permission