

THE HONORABLE RICARDO S. MARTINEZ
THE HONORABLE BRIAN A. TSUCHIDA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CEDRIC JACKSON, MARYANNE ATKINS,
TORY LOVE, TRISTAN PASCUA,
PATRICK TABLES and all others similarly
situated,

Plaintiffs,

vs.

KING COUNTY, a municipal corporation
Defendant.

No. 21-cv-995-RSM-BAT

ORDER GRANTING PRELIMINARY
APPROVAL OF CLASS SETTLEMENT,
CERTIFYING SETTLEMENT CLASS, AND
APPROVING FORM AND MANNER OF
NOTICE

The Plaintiffs have filed an unopposed motion asking the Court to certify a settlement class and to grant preliminary approval of the settlement that they have reached with Defendant King County. The Plaintiffs have also asked the Court to approve the proposed class action notice that they have filed with their unopposed motion. Dkt. # 6. Having reviewed the pleadings and other submissions and the Settlement Agreement filed with the Court, the Court makes the following findings and enters the following orders:

ORDER CERTIFYING SETTLEMENT CLASS AND
GRANTING PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT - 1
21-cv-995-RSM-BAT

COLUMBIA LEGAL SERVICES
Institutions Project
101 Yesler Way, Suite 300
Seattle, WA 98104
(206) 464-1122 (phone); (206) 382-3386 (fax)

1 1. Plaintiff's motion is granted.

2 2. The Court has reviewed the Settlement Agreement, as well as all other
3 submissions filed in this matter. The terms of the Settlement Agreement are hereby fully
4 incorporated as though fully set forth in this order.

5 3. The Court preliminarily approves the Settlement Agreement as being fair,
6 reasonable, and adequate. The Court finds that the Settlement Agreement resulted from arm's-
7 length negotiations between experienced attorneys, extensive review of documents and other
8 information, and settlement negotiations conducted with the use of an experienced mediator.

9 4. Pursuant to Rule 23(b)(3) and for the reasons stated in Plaintiffs' Motion, the
10 Court, for settlement purposes, certifies the class, defined in the Settlement Agreement as
11 follows:

12 Juveniles charged as adults between 2014-2019 who still had claims that had not expired
13 pursuant to the applicable statute of limitations as of the date(s) the Parties executed a
14 tolling agreement (as further described below) and who were subject to solitary
confinement/restrictive housing at the Maleng Regional Justice Center and/or the King
County Correctional Facility as of July 23, 2021, while they were:

15 1. Under the age of 18 years old;

16 and/or

17 2. while they were 18 years of age or older, considered "juveniles" under the
18 definition of King County Ordinance 18637, and the solitary confinement was on
and/or after that Ordinance's July 1, 2018 effective date.

19 "Juveniles charged as adults" is defined to be those individuals charged with
20 crimes under Washington laws governing the automatic or discretionary decline of
juvenile court jurisdiction, which are contained at RCW 13.04.030 and RCW 13.40.110.

21 The Class is limited to those individuals whose statute of limitations had not yet
22 expired at the time of the Parties' Statute of Limitations tolling agreement, which tolled
claims of class members during the course of negotiations. The Parties' Statute of

1 limitations tolling agreement was initially signed on September 24, 2019 to toll the
2 statute of limitations for individuals in the class who were subject to solitary
3 confinement/restrictive housing between September 24, 2016-2019, and later amended on
4 November 26, 2019 to also cover those individuals in the class who were subject to
solitary confinement/restrictive housing before September 24, 2016 and whose claim had
not expired pursuant to the applicable statute of limitations as of the November
26, 2019 amended tolling agreement signing date.

5
6 a. The Class meets the numerosity requirements of Rule 23(a)(1). The Class includes at
7 least 55 people, and may include 79 or more people. Joinder of all such persons would be
8 impracticable under Rule 23(a)(1).

9 b. The case presents common issues of law and fact for the class, namely whether the
10 Class is entitled to damages as a result of King County's policies of keeping many
11 juveniles charged as adults in solitary confinement while they were under 18 and/or while
12 they were over the age of 18 and under King County Ordinance 18637, which prohibits
13 the use of solitary confinement against certain juveniles.

14 c. Rule 23(a)(3) is satisfied because the claims of named Plaintiffs are typical of other
15 Class Members whose claims are being resolved through the Settlement Agreement. Each
16 was held in solitary confinement as a juvenile and/or while subject to the protections of
17 King County's juvenile solitary confinement ordinance.

18 d. Rule 23(a)(4) is satisfied because the named Plaintiffs are capable of fairly and
19 adequately protecting the interests of the Class, and because they are represented by
20 qualified counsel who have experience in class actions and expertise in the particular area
21 of this lawsuit.
22

1 e. The Court also finds, pursuant to Rule 23(b)(3), that “questions of law or fact common
2 to class members predominate over any questions affecting only individual members, and
3 that a class action is superior to other available methods for fairly and efficiently
4 adjudicating the controversy.” The question in this case is whether Defendant King
5 County violated the Constitution, King County Ordinance 18637, and other duties to the
6 Class by keeping the Class in solitary confinement. The resolution of more than 50
7 claims through the Settlement Agreement would also be superior to individual lawsuits,
8 promoting consistency and adjudication efficiency.

9 5. The Court appoints named Plaintiffs Cedric Jackson, Maryanne Atkins, Torry
10 Love, Tristan Pascua, and Patrick Tables as Class Representatives.

11 6. The Court appoints Columbia Legal Services and Nicholas B. Straley and Alison
12 S. Bilow as Class Counsel.

13 7. A final approval hearing shall be held before this Court on January 11, 2022 at
14 9:00 a.m.

15 8. At the final approval hearing, the Court will determine whether the Settlement
16 Agreement is fair, reasonable, and adequate, and should be approved. At the Settlement Hearing,
17 the Court may enter a Settlement Order and Final Judgment that will adjudicate the rights of the
18 Class Members with respect to the claims being settled.

19 9. The Court finds that the draft Notices filed with Plaintiffs’ motion are the best
20 notice under the circumstances and are reasonably calculated, under the circumstances, to apprise
21 Class Members of the action and their rights to object or exclude themselves. The Court finds
22 that the proposed notices are reasonable and meet all due process requirements.

1 10. The Court orders that Class Counsel shall fill in applicable contact information
2 and individual settlement information on all class action notices and transmit the notices by U.S.
3 Mail. In addition, Class Counsel may also exercise other reasonable means of notice, including
4 sending notices by electronic mail or by alerting Class Members by phone or text message. Class
5 Counsel shall provide notice in any applicable languages, in addition to English, upon learning
6 that such translation may be needed. Counsel are authorized to use all reasonable procedures in
7 connection with administration and notice that are not inconsistent with this Order or the
8 Settlement Agreement, without further court approval, including making minor changes to the
9 content of the Notice that are deemed reasonable or necessary.

10 11. If a Class Member has not previously submitted a Release of Information form to
11 Class Counsel, they must contact Class Counsel within 60 days of transmission of the notice to
12 be included in the settlement, as laid out in the notice.

13 12. If a Class Member wishes to dispute their individual settlement/solitary
14 confinement day count, they must contact Class Counsel within 60 days, as laid out in the notice.

15 13. Class Members may exclude themselves from settlement within 90 days of
16 transmission of notice by mailing written notice of their intent to opt of the settlement class.
17 Such notice must be sent via regular U.S. mail and post marked no later than 11:59 p.m. on the
18 date 90 days following transmission of notice to the class.

19 14. Class Members who have not timely submitted a written request to opt out and
20 who wish to object to the Settlement must submit any objections in writing to Class Counsel at
21 Columbia Legal Services, 101 Yesler Way, Suite 300, Seattle, WA 98104. Any such objection
22 must be sent via regular U.S. Mail and post-marked no later than 11:59 p.m. on the date 90 days

1 following transmission of notice to the class. Such written objections must include the name,
 2 address and telephone number of the person objecting to approval of the settlement and set forth
 3 the basis for the objection in sufficient detail to allow the Court and the Parties to understand the
 4 nature of the objection.

5 15. The following dates are approved and summarized as follows:

| | |
|---|--|
| 6 Deadline for Transmittal and Mailing of 7 Notice | 21 days after entry of this Order Certifying Settlement Class and Granting Preliminary 8 Approval of Class Action Settlement |
| 9 Deadline for Class Members to dispute day 10 counts or submit claims | 60 days after transmission of notice |
| 11 Class Counsel's Fee Motion Submitted | 60 days after transmission of notice |
| 12 Deadline for opt outs/objections | 90 days after transmission of notice |
| 13 Final Approval Brief and Response to 14 Objections due | 14 days after deadline to opt out or object |
| 15 Settlement Hearing | At the court's discretion, no earlier than 125 16 days after the Preliminary Approval Order is entered |

17 DATED this 10th day of August, 2021.

18
 19 

20 RICARDO S. MARTINEZ
 21 CHIEF UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Alison S. Bilow declares as follows:

I hereby certify that on August 10, 2021, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system.

I further certify that I served the foregoing filing upon attorneys for Defendants in this action at their email addresses as listed below:

DAN SATTERBERG, King County Prosecutor
Civil Division
King County Courthouse
516 Third Avenue, W400
Seattle, WA 98104

Ann Summers, Ann.Summers@kingcounty.gov
Jessica Kozma, Jessica.Kozma@kingcounty.gov
Pascal Herzer, Pascal.Herzer@kingcounty.gov

DATED this 10th day of August, 2021.

/s/ Alison S. Bilow
ALISON S. BILOW, WSBA #49823
alison.bilow@columbialegal.org
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