



the Warden of the Talladega Correctional Facility “until such time as he purges himself of contempt.” (*Id.*)

### **The Sheriff’s Proposal and the Court’s Reaction**

Yesterday, counsel for Sheriff Bartlett contacted the Court and indicated that the Sheriff proposed to purge himself of contempt by:

- “[I]mmediately establishing and implementing a procedure whereby all funds provided by any source for the feeding of inmates, including funds from the State of Alabama, any municipality, and the federal government will be used exclusively for the feeding of said inmates incarcerated in the Morgan County Detention Facility. For any year in which there is a shortfall in funds to provide meals for people in the County Jail, the Morgan County Commission and not the sheriff will be responsible for the shortfall in funds.”
- “Fresh fruit, fresh milk, vegetables and whole grains will be a regular part of the monthly menu.”
- “Daily meals will be based on the USDA’s Food Guide Pyramid. Precise adherence is not required, but indicators of conformance to the guidelines and of providing ‘nutritionally adequate’ meals include: a variety of foods from all food groups and subgroups; a significant increase in fruits, vegetables, whole grains, and low-fat milk; and the replacement of processed meats with lean meats, poultry and eggs.”
- “[C]ondiments including salt, pepper, sugar, mustard, and ketchup, when appropriate, will be regularly provided with each meal.”
- “[Termination of] the services of the current nutritionist employed by the County and [the employment] of a nutritionist acceptable to class counsel and whose contract will be reviewed and jointly approved by the Sheriff and class counsel on an annual basis.”
- “All monthly menus will be posted in conspicuous places within the jail facility

so [they] may be monitored by the inmate population.”

- “Class counsel will conduct quarterly, unannounced inspections of the County Jail facility and financial records regarding all funds received and expended by the sheriff for the purpose of providing meals to the people incarcerated in the jail. Class counsel will be compensated [with] reasonable attorney’s fees by the Commission defendants for their monitoring activities in this regard.”

(Document styled, “In the Matter of the Contempt of Greg Bartlett, Sheriff of Morgan County,” submitted to the Court by Donald R. Rhea, Attorney for Defendant Greg Bartlett.)

In the Court’s view, the actions proposed by Sheriff Bartlett are sufficient to purge him of civil contempt. Counsel for the class concur in the Court’s judgment; and have moved to modify the Consent Decree to include these provisions. (Doc. 91.)

### **The County Commission’s Objections**

Of course, the Sheriff is not empowered to obligate the County Commission to assume any additional obligations under the Consent Decree. The County Commission apparently objects to: 1) assuming any shortfall in funds required for the feeding of prisoners; and 2) paying class counsel’s attorneys’ fees for monitoring compliance with the modified Consent Decree. (*See* Doc. 93.)

The Court need not reach the merits of the County Commission’s objection to

assuming any shortfall in the food funding for prisoners.<sup>1</sup> Experience teaches that no such “shortfall” can reasonably be expected. Quite to the contrary, what we have witnessed in Alabama counties is a reprehensible “windfall” to the sheriffs who retain such funds. It is sufficient to declare, as the Court does, that Sheriff Bartlett shall not be personally liable in the most unlikely event of such shortfall. Thus, the County Commission’s objection is due to be overruled.

The County Commission’s objection to sharing in the attorney’s fees for monitoring compliance with the Consent Decree is without merit. When class counsel monitor compliance with modified Paragraph 22 of the Consent Decree, they are directed by the Court to also monitor compliance with Paragraph 33 of the Consent Decree, which both the Sheriff and the County Commission have violated. Under the terms of the Original Consent Decree, class counsel are entitled to “fees and costs that are directly and reasonably incurred in enforcing the relief ordered . . . .” (Doc. 24, Consent Decree ¶ 34.)

### **Conclusion**

Sheriff Bartlett’s proposal by which to purge himself of contempt is hereby  
ACCEPTED by the Court.

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<sup>1</sup> Under Alabama law, “[t]he county commission of each county shall supervise the feeding of all prisoners in the county jails over which it has jurisdiction. Ala. Code. 1975 § 14-6-41(b).

The County Commission's objections to the Plaintiff's Motion to Modify the Consent Decree are hereby OVERRULED, with the understanding that the modification does not by its terms require Sheriff Bartlett to assume liability for any shortfall in the funding of food for inmates.

The Plaintiffs' Motion to Modify the Consent Decree is hereby GRANTED; and the Consent Decree is hereby MODIFIED, except that the modification does not by its terms require Sheriff Bartlett to assume liability for any shortfall in the funding of food for inmates.

Done this 9th day of January, 2009.

A handwritten signature in black ink, appearing to read "U.W. Clemon". The signature is written in a cursive style with a horizontal line underneath it.

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U.W. Clemon  
United States District Judge