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### **Federal Judge Rescinds Arizona Prison Health Care Settlement, Orders New Trial**

Citing "pervasive material breaches" of Arizona's prison health care class action settlement, U.S. District Court Judge Roslyn Silver rescinded the settlement and ordered the Department of Corrections and prisoner attorneys to prepare for a trial in an order issued on Friday. The Parsons v. Ryan settlement was certified more than 6 years ago in 2015. The state agreed to a set of performance benchmarks that were created to raise the standard of health care in the 10 state-run prisons. On Friday, Judge Silver issued an order setting that agreement aside, saying the Department of Corrections and its private health care contractors had repeatedly failed to meet the settlement conditions. "Over the past six years, Defendants have consistently failed to meet many of the Stipulation's critical benchmarks," Silver wrote. "Beyond these failures, Defendants have in the past six years proffered erroneous and unreliable excuses for non-performance, asserted baseless legal arguments, and in essence resisted complying with the obligations they contractually knowingly and voluntarily assumed." Judge Silver noted that both she and Magistrate Judge David Duncan, who previously presided over the settlement, had attempted to use the powers granted to them by the settlement to improve the state's compliance, with no success. "The remedies and tolerance by the Court have proven ineffective," Silver wrote. "The present situation must end." The scathing, 37-page order outlines years of failures by the Department of Corrections and its health care contractors to deliver adequate care to people in state prisons. In a detailed history of the case, Judge Silver cited several examples showing the Department could no longer be trusted, including the testimony of a Department of Corrections psychologist who admitted in court they weren't providing accurate monitoring numbers related to the settlement. Judge Silver pointed to the history of consistent understaffing by the private prison health care contractors hired by the state, and the failures of court-ordered expert analysis to improve the staffing problems. Silver cited extensively from a February 2018 evidentiary hearing that was prompted by exclusive KJZZ reporting. The judge quoted whistleblower testimony by Dr. Jan Watson and emails KJZZ published showing Corizon Health officials were purposefully evading the court monitoring process. Judge Silver chastised former Department of Corrections Director Charles Ryan for being a poor steward of taxpayer money, questioning his reasoning that putting a cap on performance sanctions against its prison health care contractor was a "smart business decision." The order also describes previous testimony from mental health clinician Angela Fischer and Corizon Health administrator Cecelia Edwards. Both women testified in federal court about improper health care conditions and questionable administrative procedures despite fearing for their safety and the well-being of their families. Judge Silver said despite two massive sanctions totaling \$2.5 million levied against DOC by the courts, monetary fines seemed to have no effect on compliance with the settlement. And Silver called attention to the mounting legal expenses associated with the ongoing litigation, which total more than \$21 million. "Defendants' longstanding refusal to acknowledge their shortcomings and identify plausible paths to compliance evidences their pattern of conduct will not change," Silver wrote, ordering a new trial. ACLU National Prison Project attorney Corene Kendrick represents Arizona prisoners in the case. She says a trial could lead to several different outcomes from Judge Silver. "She could order the state to stop using these private, for-profit contractors to deliver health care," Kendrick said. "She could order the state to hire more doctors and nurses to staff the prisons. And the judge could also take the prison health care system into receivership." While Silver previously expressed reluctance to bring the state prison health care system under the control of the court, Kendrick says it remains a possibility. "She doesn't want to be micromanaging the prisons," Kendrick said, "but the courts have an obligation to protect the constitutional rights of the incarcerated people in this case." Silver ordered the attorneys to confer and discuss a schedule for the trial, which is to start no later than November 1st, 2021. The Arizona Department of Corrections did not respond to a request to respond to the order. "Defendants' failures have led to preventable deaths, possibly including suicides," Silver wrote. "Defendants' failures have also led to untold suffering by individuals unable to obtain medical treatment ... It is impossible to quantify, monetarily, the harm suffered by prisoners."