



Supreme Court of Appeals State of West Virginia

News

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Supreme Court Compliance Committee on prisons and jails issues interim report

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CHARLESTON, W.Va. – The Supreme Court of Appeals of West Virginia’s Compliance Committee on *Sams v. Kirby* issued an interim report today. The Committee will issue a final report within the next several months.

This interim report is very specific. It is the Committee’s response to the June 30, 2008, report by the Governor’s Commission on Prison Overcrowding. The Compliance Committee’s report responds to each of that panel’s fourteen recommendations, agreeing in principle with twelve recommendations and disagreeing with two at this time. The two with which the Compliance Committee disagrees both deal with adding additional cells.

Specifically, the Compliance Committee disagrees that there is a need to add three hundred beds to the St. Marys Correctional Complex or that there currently is a need to build a new 1,200-bed medium-security prison. As is clear in the attached report, the Compliance Committee believes that the other twelve initiatives, if fully enacted, could eliminate the need for these expensive new cells and the accompanying \$200 million in construction costs.

“We cannot build ourselves out of this problem,” said Fourteenth Judicial Circuit Judge Jack Alsop, Chairman of the Compliance Committee. “The Committee encourages the other branches of government to look at other alternatives the Governor’s Commission and our Committee have recommended.

“I want to express my appreciation to the other members of the Compliance Committee and to the Governor’s Commission for the outstanding work they have done. Our Committee believes, as the Governor’s Commission believes, that these are serious issues of prison overcrowding,” Judge Alsop said.

“Comparing West Virginia’s use of alternative sanctions to the national averages shows a remarkably expensive disparity,” said Supreme Court Administrative Director Steve Canterbury, who previously served as Executive Director of the Regional Jail and Correctional Facility Authority for eight years under three governors. “Currently, only 1,500 offenders are in community corrections programs. That saves our state \$30 million annually, compared to what it would cost to lock them up.”

(MORE)

The *Sams v. Kirby* case was filed in 1999 by Daniel L. Sams and other inmates who sought a writ of *mandamus* to compel their transfer from a regional jail to facilities operated by the Division of Corrections. The Supreme Court initially granted a moulded writ and appointed a special master to oversee the preparation of a long-range plan for the transfer of state inmates lodged in jails to prisons. The plan was submitted to the Court on September 20, 2002.

The 2005 Supreme Court *Sams v. Kirby* opinion concluded by saying, "It is far preferable for this Court to extend to the executive and legislative branches clear and definitive opportunities to formulate policies without premature judicial involvement. We commend to our sister branches the Long Term Plan developed by the executive offices having direct responsibility for these policies. We call upon the leadership of the executive and legislative branches not to allow these problems to go unaddressed and not to allow those directly responsible for the implementation of such policies to avoid the resolution of the problems identified herein solely by reason of inertia."

The Court at that time declined to issue a writ of *mandamus*. "We do, however, urge the executive and legislative branches to undertake serious review of their respective role and responsibilities for contributing to the current housing situation and to act with alacrity, to avoid the day when we or the federal courts are forced to intervene," the opinion concluded.

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