

Per Curiam:

State of West Virginia ex rel.
Daniel L. Sams, et al.,
Petitioners

FILED
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RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

RELEASED
December 2, 2002
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SUPREME COURT OF APPEALS
OF WEST VIRGINIA

vs. Nos. 26647, 26909, 26910, 27308, 27309, 26911

Paul w. Kirby, Commissioner,
Division of Corrections,
Steven D. Canterbury, Executive
Director of the Regional Jail and
Correctional Facility Authority, et al.,
Respondents

On a former day, to-wit, October 9, 2002, this Court received the Long-Term Plan for Reducing the Number of State Prisoners Held in County and Regional Jails. The plan was jointly submitted by the Special Master, Forrest H. Roles, the West Virginia Division of Corrections (DOC), the Kanawha County Public Defender Office, and the West Virginia Regional Jail and Correctional Facility Authority (RJA).

This Court is cognizant of the ongoing and seemingly endless problem faced by the West Virginia Division of Corrections wherein inmates who have been sentenced to prison terms are confined for extended periods of time in regional jails or county jails due to inadequacies which exist in State penal facilities. This problem has been brought to this Court's attention by numerous inmates on numerous occasions. We last attempted to tackle

the dilemma faced by the DOC in *State ex rel. Sams v. Kirby*, 208 W.Va. 726, 542 S.E.2d 889 (2000). In *Sams*, we discharged the former Special Master, Patrick McMannis, and appointed Forrest H. Roles to serve as the new Special Master. We ordered the Commissioner of the DOC and the Director of the RJA to work with Mr. Roles “to create a complete, long-range plan for the transfer to DOC facilities those inmates lodged in regional and county jails who are awaiting such transfer.” *Id.*, 208 W.Va. at 731, 542 S.E.2d at 894. *See also State ex rel. Stull v. Davis*, 203 W.Va. 405, 412, 508 S.E.2d 122, 129 (1998) (per curiam) (Wherein this Court directed, *inter alia*, “the Commissioner of the Division of Corrections to submit to this Court, as soon as practicable, a full and complete long-range plan for the transfer of such inmates to Division of Corrections facilities.”).

The culmination of the parties’ work is a long-range plan which sets forth various viable options which may be implemented to eliminate overcrowding in DOC facilities. The comprehensive plan was jointly submitted by all interested parties to this Court on October 9, 2002. We commend the efforts of all parties involved. We also acknowledge the respect and cooperation that has been exhibited among the parties during this difficult assignment. We hereby receive the report and transmit the same to the Executive and Legislative branches of government for their consideration.

Subsequent to oral argument, we received a written submission from the West Virginia Parole Board. After studying the materials submitted by the Parole Board, we deemed

it necessary to request responses from the public defender, the RJA, and the DOC. We await those responses. We also ask that all responses be forwarded to the Executive and Legislative branches of government.

The Special Master is not discharged. The report speaks for itself. After giving the Executive and the Legislative branches of government time to review the long-range plan and to implement the recommendations which, in their wisdom, will eliminate the overcrowding problem in West Virginia's prisons, this Court will reassess progress in one year. In fulfillment of our role as constitutional overseer of the inmate population, we will not hesitate to intervene in the future, if it becomes necessary, to assure that inmates are afforded their constitutional and statutory rights.

Long-Term Plan Received.