

IN THE COURT OF APPEALS OF THE STATE OF OREGON

BRIAN STOVALL, JOHN
OLMSTEAD, CONNIE
KRUMMRICH, and KAREN
BROWN,

Plaintiffs-Appellants
Cross-Respondents,

v.

NORTHERN OREGON
CORRECTIONS, dba NORCOR, an
intergovernmental corrections entity,

Defendant-Respondent
Cross-Appellant,

and

WASCO COUNTY,

Defendant-Respondent.

Wasco County Circuit Court Case
No. 17CV31082

A170661

**PLAINTIFFS-APPELLANTS'
NOTICE OF ADDITIONAL
FACTS**

Pursuant to Oregon Rule of Appellate Procedure (ORAP) 8.45, Plaintiffs-Appellants (“Plaintiffs”) write to notify the Court of additional facts relating to the questions presented in this appeal.

The Chair of the Board of Directors of Defendant NORCOR reported at the Board’s September meeting that the Intergovernmental Services Agreement (IGSA) at issue in this appeal had been terminated. NORCOR also posted a press release on its website, stating that the NORCOR Board “voted unanimously on August 20, 2020 to discontinue housing all custodies for the Federal Immigration and Customs Enforcement agency.” *See* NORCOR, Public Meetings, <https://www.norcor.co/meetings/> (last visited Oct. 26, 2020). The press release

further states that NORCOR would “initiate the steps within contractual requirements to terminate the housing agreements.” *Id.*¹ On August 25, 2020, Defendant NORCOR sent a letter to Mr. Corey Heaton, Assistant Field Office Director for Immigration & Customs Enforcement–Enforcement & Removal Operations (ICE–ERO), notifying Mr. Heaton that NORCOR was “terminating [its] contract with your agency effective September 30th 2020.”² Based on the above announcements, Plaintiffs assume that the contract at issue in this appeal has been terminated.

Plaintiffs have been unable to confirm the termination, however. NORCOR’s letter to Mr. Heaton may not have been sufficient to terminate the IGSA, because ICE–ERO is not a party to that contract. *See* ER 29. Plaintiffs have notified Defendant, through counsel, of that fact. Plaintiffs have also tried to confirm, through counsel, the status of the IGSA, but NORCOR’s counsel has refused to answer any of Plaintiffs’ questions and has refused to confirm or deny any of his client’s public statements.

¹ The announcement was covered by the press. *See, e.g.,* Conrad Wilson, *NORCOR, Last Jail in Oregon to Hold Immigration Detainees, to End ICE Contract*, OPB (Aug. 22, 2020), <https://www.opb.org/article/2020/08/21/northern-oregon-regional-correctional-facility-norcor-ice/>.

² A copy of this letter is attached to this notice as Exhibit A.

Thus, although NORCOR's public statements suggest that portions of this appeal may potentially be moot, Plaintiffs require, but have been unable to obtain, additional facts necessary to make that determination.

DATED this 27th day of October, 2020.

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August 25, 2020

Corey R. Heaton
Assistant Field Office Director
ICE | Enforcement and Removal Operations
Portland CAP/VCAS & Fugitive Operations
4310 SW Macadam Avenue, Portland, OR 97239

Dear Mr. Heaton,

NORCOR has been working with ICE since the early 2000s and we have enjoyed a mutually-agreeable association. We have had to continue to restrict the intakes we receive from your agency over time for a number of reasons. These reasons include the increased legal expenses, COVID-19, and the additional duties and responsibilities required of our Corrections Deputies to adhere to ICE compliance standards.

Due to the above reasons, NORCOR intends to make the following change to our current agreement. We are using the option of giving you our 30 day notification to terminate our contract with your agency effective September 30th 2020.

We hope that these changes will not be a detriment to your agency and if there are any questions, please contact me.

Sincerely,

Bob Benton, NORCOR Board Chair

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on October 27, 2020, I directed the original **PLAINTIFFS-APPELLANTS' NOTICE OF ADDITIONAL FACTS** to be electronically filed with the Appellate Court Administrator, Appellate Records Section, and electronically served upon the following individuals using the court's electronic filing system:

Drew L. Eyman and Thomas M. Christ, attorneys for Defendant-Respondent/Cross-Appellant Northern Oregon Corrections;

Kristen A. Campbell, attorney for Defendant-Respondent Wasco County;

Stephen S. Walters and David Roy Henretty, attorneys for Plaintiff-Appellant/Cross-Respondent Karen Brown;

Stephen W. Manning, attorney for Plaintiffs-Appellants/Cross-Respondents Brian Stovall, John Olmstead, and Connie Krummrich; and

Leland Baxter-Neal, Bruce L. Campbell, and Iván Resendiz Gutierrez, attorneys for Amici Curiae Gorge Ecumenical Ministries, Gorge ICE Resistance, Hood River Latino Network, NORCOR Community Resources Coalition, and Rural Organizing Project.

DATED this 27th day of October, 2020.

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