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Court Approves Preliminary Settlement in Class Action Lawsuit Against Florida Department of Corrections For Confiscation of Millions of Dollars of Digital Music

MIAMI/TALLAHASSEE/TAMPA BAY – Today, a federal judge preliminarily approved a settlement resolving a statewide class action lawsuit against the Florida Department of Corrections (FDOC) involving the confiscation of millions of dollars of lawfully purchased digital music from incarcerated people in Florida. The settlement requires the FDOC to provide 3.9 million credits for class members to use in the current Multimedia Tablet Program that is available to people in prison, which will enable all class members to replace as many or more songs than they had purchased in the previous program.

The lawsuit, filed in February 2019, explained that the FDOC for several years permitted incarcerated people to purchase and listen to digital songs on media players while in prison, with the FDOC receiving a commission on each song purchase. But when the FDOC decided to switch program vendors, it required participants to surrender their digital media players, cut off access to their songs, and did not permit any of the songs to be transferred to the new program. If participants wanted to access their purchased music, they had to re-purchase it in the new program. The Complaint alleged that these actions violated the Takings Clause of the Fifth Amendment and the Due Process Clause of the Fourteenth Amendment.

“We are pleased that this resolution restores the class members’ ability to use what they purchased: the right to listen to their chosen music while in prison,” said FJI Executive Director Dante Trevisani. “We hope this case sends a message that the property of incarcerated people cannot just be indiscriminately taken.”

The settlement, which is still subject to final approval by the Court, requires the FDOC to provide 3.9 million credits to roughly 11,000 class members that will enable them to replace as many or more songs than they had purchased in the previous program, or use them for any purpose in the current Multimedia Tablet Program. The FDOC has also agreed to pay \$150,000 in attorneys’ fees and costs.

The plaintiffs and class representatives are William Demler, Wayne Pula, and Michael Gisi, all of whom purchased hundreds of songs through the previous program, only to have them confiscated by the FDOC without compensation. They, along with the class members, were promised by the program’s advertisements that they would always own the music they purchased—a promise that turned out to be empty. Now, as a result of their efforts, and this lawsuit, their property will be restored.

“These men and women, many of whom are indigent, spent lots of hard-earned money on this music,” said SJLC attorney Shawn Heller. “We hope this case informs the way the FDOC approaches the end of the contract with its current vendor when the time comes.”

The case is *Demler v. Inch*, Case No. 4:19-CV-0094, and is before Judge Robert Hinkle in the Northern District of Florida.

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