

Federal court upholds contempt ruling against prison company

By REBECCA BOONE, Associated Press

BOISE, Idaho (AP) — A federal appellate court has upheld a contempt of court ruling made against a national private prison company for falsifying staffing reports at an Idaho prison.

Monday's ruling from the 9th U.S. Circuit Court of Appeals means the Nashville, Tennessee-based Corrections Corporation of America (CCA) will have to pay higher-than-normal attorneys' fees to the American Civil Liberties Union, which represented the inmates at the formerly CCA-run Idaho Correctional Center. That's because the ACLU asked for and received an enhanced fee award for providing superior representation to the inmates despite limited resources.

The company disagrees with the ruling, CCA spokesman Steve Owen said. "Our legal representatives are reviewing this new information to determine our options for possible next steps," Owen wrote in an email.

The ACLU sued CCA on behalf of the prisoners in 2011 contending that understaffing led to rampant violence and other problems at the prison south of Boise. CCA agreed to increase staffing levels and make other changes as part of a settlement agreement, but an Associated Press investigation later revealed that the company was falsifying reports in order to hide continued understaffing from state officials. The understaffing put the company in violation of its \$29 million annual contract to run the 2,080-bed prison for the state of Idaho.

The phony staffing logs prompted Idaho Gov. C.L. "Butch" Otter to order the state to take over operations at the prison.

Though CCA no longer operates the Idaho Correctional Center — the prison was renamed the Idaho State Correctional Center after the state took over operations — the validity of the contempt order remained an issue because CCA was also fighting the amount of attorneys' fees granted to the ACLU.

Though CCA increased the number of budgeted security staff after the settlement, the company didn't actually fill many of those new positions, according to the ruling. The warden was warned during meetings that there were acute staffing difficulties, but they were never addressed.

"Finally, CCA contends its senior management may not have known that ICC staff members were falsifying staffing rosters," 9th Circuit Judge William Fletcher wrote for the unanimous three-judge panel. "CCA failed, however, to take all reasonable steps that would have allowed it to discover that records had been falsified."

Generally, the winners of a lawsuit can ask the court to order the losing party to pay their attorneys' fees and court costs. In the lower court, U.S. District Judge David Carter chose to award enhanced attorney's fees to the ACLU, noting that the lawyers worked under extremely tight deadlines and provided superior service to the inmates they represented. The enhancements were substantial: Carter doubled the fees for one attorney and multiplied another attorney's fees by 1.3. In total, the court awarded just under \$350,000 in attorney's fees and costs to the ACLU.

The appellate court also found that the higher attorneys' fees were merited because it can be difficult to find attorneys willing to take on inmate civil rights claims, especially in cases where operational changes, not monetary damages, are sought. The larger-than-normal award will help attract competent attorneys in similar cases down the road, Fletcher wrote.

In a written statement, ACLU-Idaho Legal Director Richard Eppink said, "The courts have once again found that CCA was in the wrong and must be held accountable."