

205 F.3d 1346

Unpublished Disposition

NOTICE: THIS IS AN UNPUBLISHED OPINION.

(The Court's decision is referenced in a "Table of Decisions Without Reported Opinions" appearing in the Federal Reporter. Use FI CTA8 Rule 28A, FI CTA8 IOP and FI CTA8 APP. I for rules regarding the citation of unpublished opinions.)

United States Court of Appeals, Eighth Circuit.

Larry W. JONES, Plaintiff,  
Roosevelt HAYES; Winston Holloway; Donald R. Peterson; Larry Green, Movants,  
Ronnie BRIGGS, Appellant,

v.

James MABRY, Individually and in his capacity as Director for the Arkansas Department of Correction; Jerry Campbell, Warden, Arkansas Department of Correction; Kenny Taylor, Assistant Warden, Arkansas Department of Correction; Larry Norris; Greg Harmon, Appellees.

No. 99-1396. | Submitted Nov. 24, 1999. | Decided Dec. 6, 1999.

Appeal from the United States District Court for the Eastern District of Arkansas.

Before BOWMAN, FAGG, and MURPHY, Circuit Judges.

### Opinion

[UNPUBLISHED]

PER CURIAM.

\*1 In 1978, Arkansas inmates filed a class action suit against Arkansas Department of Correction (ADC) officials, raising First Amendment challenges to ADC grooming guidelines. In 1979, an order was entered terminating the litigation on the basis of a judicially approved mediated settlement agreement, in which ADC agreed that no standard hair length or styles would be required. In 1998, ADC enacted a new grooming policy, Administrative Directive (A.D.) 98-04, which standardized hair length and prohibited beards. After members of the 1978 class action (including Ronnie Briggs, a current Arkansas inmate) moved for contempt or breach of the settlement agreement, the district court<sup>1</sup> terminated the settlement agreement upon the prison officials' motion pursuant to the Prison Litigation Reform Act (PLRA) of 1995, and refused to find ADC in contempt. Briggs appeals, and we affirm.

We first reject Briggs's argument that the settlement agreement is a private settlement agreement which is exempt from the PLRA. *Compare* 18 U.S.C. § 3626(g)(1) (consent decree includes any relief entered by court that is based on consent or acquiescence of parties), *with* 18 U.S.C. § 3626(g)(6) (private settlement agreement is entered into among parties and is not subject to judicial enforcement other than reinstatement of civil proceeding that agreement settled). We also reject his argument that ADC violated his procedural due process rights by enacting the new grooming policy before seeking to terminate the settlement agreement. *See Gavin v. Branstad*, 122 F.3d 1081, 1090 (8th Cir.1997) (holding inmates cannot show they have property interest in rights conferred by consent decree), *cert. denied*, 118 S.Ct. 2374 (1998). Briggs's constitutional challenge to the PLRA's termination provisions is foreclosed under *Gavin*, 122 F.3d at 1088-92 (finding PLRA is constitutional and does not violate separation of powers doctrine, equal protection, or due process).

Finally, we conclude the district court properly terminated the settlement agreement under 18 U.S.C. § 3626(b)(2) and (b)(3), because the court found (1) the settlement agreement lacked specific court findings meeting the standards of the PLRA, and (2) A.D. 98-04 was not unconstitutional. *See Watson v. Ray*, No. 98-3443, 1999 WL 767854, at \*4 (8th Cir. Sept. 29, 1999) (where district court found that consent decree did not contain findings required by PLRA-decree was not narrowly tailored and provided more relief than Constitution required-and that inmates had failed to prove existence of current federal rights violations, district court did not err in terminating decree). Thus, we find no abuse of discretion in the district court's refusal

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to hold ADC in contempt. *See Welch v. Spangler*, 939 F.2d 570, 572 (8th Cir.1991) (standard of review).

Accordingly, we affirm.

A true copy.

**Parallel Citations**

1999 WL 1204569 (C.A.8 (Ark.))

Footnotes

<sup>1</sup> The Honorable Henry Woods, United States District Judge for the Eastern District of Arkansas, adopting the report and recommendations of the Honorable H. David Young, United States Magistrate Judge for the Eastern District of Arkansas.