

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:10-CT-3123-BO

SHAUN ANTONIO HAYDEN,)
)
 Plaintiff,)
)
 v.)
)
 ALVIN W. KELLER, ROBERT C.)
 LEWIS, ANTHONY E. RAND, and)
 PAUL G. BUTLER, JR.,)
)
 Defendants.)

ORDER

The matter now comes before the court on plaintiff’s request for injunctive relief and motion to appoint a special master (DE 89). The issues raised have been fully briefed and are ripe for adjudication. For the following reasons, the court grants plaintiff’s request for injunctive relief and denies as moot plaintiff’s motion for a special master.

BACKGROUND

On September 11, 2012, plaintiff Shaun A. Hayden (“Hayden” or “plaintiff”), a state inmate represented by North Carolina Prisoner Legal Services (“NCPLS”) filed an amended complaint against defendant Paul G. Butler (“Butler”), the Chairman of the North Carolina Post-Release Supervision and Parole Commission.¹ (DE 10). In his amended complaint, plaintiff alleged that as a juvenile offender sentenced to life imprisonment with parole, he is owed a “meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation” pursuant to the United States

¹ A more comprehensive procedural history is set forth in the court’s September 25, 2015, order. See Hayden v. Keller, 134 F. Supp. 3d 1000 (E.D.N.C. 2015).

Supreme Court's ruling in Graham v. Florida, 560 U.S. 48, 75 (2010). (Id.) Plaintiff further alleged that the Commission and their procedures do not afford plaintiff that opportunity. (Id.) Plaintiff seeks the following injunctive relief: (1) a court order directing defendant to provide plaintiff with a meaningful opportunity to obtain release by demonstrating his maturity and rehabilitation; and (2) that the court retain jurisdiction over this action until such time as it is satisfied that the unlawful laws, policies, practices, rules, acts, and omissions complained of have been satisfactorily rectified.² ((DE 10), p. 11).

After considering the parties' cross-motions for summary judgment, the court entered an order denying defendant's motion for summary judgment. The court also granted in part and denied without prejudice, in part, plaintiff's motion for summary judgment, and provided the following instruction:

[T]he court finds that the current North Carolina parole review process for juvenile offenders serving a life sentence violates the Eighth Amendment. Having so held, the court is guided by the mandate of *Graham* which instructs that "[i]t is for the State, in the first instance, to explore the means and mechanisms for compliance." 560 U.S. at 75, 130 S.Ct. 2011. Thus, the court denies without prejudice Hayden's request for the injunctive relief and gives the parties 60 days to present a plan for the means and mechanism for compliance with the mandates of *Graham* to provide a meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation to juvenile offenders convicted as adults.

See Hayden v. Keller, 134 F. Supp. 3d 1000, 1010 (E.D.N.C. Sept. 15, 2015). Defendant subsequently filed an interlocutory appeal of the September 25, 2015, order to the United States

² The court notes that plaintiff, in his supplemental brief in support of his motion for summary judgment, requested "a permanent injunction requiring Defendant to provide him with advance notice of his parole proceedings, as well as the opportunity to appear at those proceedings in order to provide input." ((DE 56), p. 7). The court in its September 25, 2015, order denied without prejudice this specific request for injunctive relief. See Hayden, 134 F. Supp. 3d at 1011.

Court of Appeals for the Fourth Circuit, and this court entered a stay pending the Fourth Circuit's resolution of the appeal. (DE 59, 65). On August 1, 2016, the Fourth Circuit dismissed defendant's appeal for lack of jurisdiction on the grounds that the court's September 25, 2015, order was not a final order "because the court retained jurisdiction to rule on appellee's request for injunctive relief." Hayden v. Butler, 667 F. App'x 416, 417 (4th Cir. 2016). After defendant's appeal was dismissed, the court lifted the stay and directed that the "parties have 60 days to present a plan for the means and mechanism for compliance with the mandates of Graham [], to provide a meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation to juvenile offenders convicted as adults." (See (DE 72)).

On October 24, 2016, the parties filed their respective proposed plans for compliance with Graham, which were fully briefed. (See (DE 82, 83)). The parties' individual plans differed substantially. Accordingly, on July 5, 2017, the court directed the parties to confer and respond to the court to indicate their mediation preferences or to move for appointment of a special master. (DE 88). Plaintiff subsequently filed a motion to appoint Martin F. Horn as a special master pursuant to Federal Rule of Civil Procedure 53(a)(C) to assist with resolving the parties' differences contending that the outstanding issues cannot be effectively or timely addressed by the district court or a magistrate judge. (DE 89). Defendant opposed plaintiff's motion. (DE 91). On September 20, 2017, the court conducted an evidentiary hearing, and heard oral argument on the parties' proposed plans.

DISCUSSION

The court first considers plaintiff's request for injunctive relief. Injunctive relief may be granted only upon plaintiff's proof of constitutional violations. See Bolding v. Holshouser, 575 F.2d

461, 466 (4th Cir.), cert. denied, 439 U.S. 837, (1978); Mitchum v. Foster, 407 U.S. 225, 242 (1972). A federal court's power to intervene in the internal operations of state agencies is limited. See Florence v. Bd. of Chosen Freeholders, 566 U.S. 318, 325 (2012) ("The difficulties of operating a detention center must not be underestimated by the courts Maintaining safety and order at these institutions requires the expertise of correctional officials, who must have substantial discretion to devise reasonable solutions to the problems they face."), see, e.g., Graham, 560 U.S. at 75 ("It is for the State, in the first instance, to explore the means and mechanisms for compliance."). In prison conditions cases, the Prison Litigation Reform Act ("PLRA") specifically provides that a court "shall not grant or approve any prospective relief unless the court finds that such relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right, and is the least intrusive means necessary to correct the violation of the Federal right." 18 U.S.C. § 3626(a)(1)(A); see also 18 U.S.C. § 3626(g)(7) (defining "the term 'prospective relief' [to] mean[] all relief other than compensatory monetary damages"); see Plyler v. Moore, 100 F.3d 365, 369–70 (4th Cir. 1996).

The court determined in its September 25, 2015, order, that the State's current parole procedures violate the Eighth Amendment because they do not offer juvenile offenders serving a sentence of life with the possibility of parole a "meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation." Hayden, 134 F. Supp. 3d at 1011 (citing Graham, 560 U.S. at 79). In considering the parties' respective proposed plans, it is important to note that the Court in Graham provided that "[i]t is for the State, in the first instance, to explore the means and mechanisms for compliance[.]" and that the "State [is] not required to guarantee eventual freedom to a juvenile offender convicted of a nonhomicide crime." Graham, 560 U.S. at 75. The Supreme Court has declined to articulate a minimum standard for what constitutes a "meaningful

opportunity.” See id. However, post-Graham, federal courts have shown deference to the States when reviewing parole procedures for juvenile offenders. See Virginia v. LeBlanc, 137 S. Ct. 1726, 1728 (2017) (reversing a Fourth Circuit Court of Appeal’s decision finding that the State of Virginia’s geriatric release program did not provide a meaningful opportunity for juvenile nonhomicide offenders to obtain release based on demonstrated maturity and rehabilitation);³ Wershe v. Combs, No. 1:12-CV-1375, 2016 WL 1253036, at *4 (W.D. Mich. Mar. 31, 2016) (“Graham does not allow courts to undertake a full review of the State’s parole procedures and substitute its own judgment for the State’s Rather, Graham requires that the State provide offenders with a meaningful opportunity to demonstrate that they are entitled to release based on maturity and rehabilitation, and gives the State primary responsibility for determining how to provide such opportunity.”), appeal voluntarily dismissed, No. 16-1453, 2017 WL 4546625 (6th Cir. 2017).


In this case, the State’s proposed plan provides eligible offenders advance notice of his/her parole hearing, as well as the opportunity to present evidence and witnesses bearing on the inmate’s maturity and rehabilitation. The plan also imposes a duty on the Commission to provide written notice to any eligible offender who has been denied parole stating the specific reasons parole was denied as well as any recommendations for steps the offender may take to improve his/her future chances for parole release. This is a significant departure from the current parole process which provides no advance notice of parole review to the eligible offender, no opportunity to be heard

³ In making its determination in LeBlanc, the Court noted that Virginia’s geriatric release program instructed the Virginia Parole Board to consider factors like the “individual’s history . . . and the individual’s conduct . . . during incarceration,” as well as the prisoner’s “inter-personal relationships with staff and inmates” and “[c]hanges in attitude toward self and others.” LeBlanc, 137 S.Ct. at 1729 (citation omitted). The Court found that consideration of these factors “could allow the Parole Board to order a former juvenile offender’s conditional release in light of his or her demonstrated maturity and rehabilitation.” Id. Notably, the petitioner in LeBlanc sought relief pursuant to 28 U.S.C. § 2254, and the Court specifically stated that it expressed no view on the merits of any underlying Eighth Amendment claim. Id.

during the parole review process, and no in-person hearing—all of which were specific concerns identified by the court in its September 25, 2015, order. See Hayden, 134 F. Supp. 3d at 1002-1003. While plaintiff requests additional measures such as an in-person hearing before the entire Commission, the appointment of counsel, expert witness fees, and judicial review, there is no federal authority mandating such measures and the case law specifically leaves the means and mechanisms for compliance with Graham to the states.

Based upon the foregoing, the court finds that the relief provided in the State's proposed plan is narrowly drawn, extends no further than necessary to correct the violation of a federal right, and is the least intrusive means necessary to correct the violation of the federal right. See 18 U.S.C. § 3626(a)(1)(A). Accordingly, the court GRANTS plaintiff's request for injunctive relief and ADOPTS defendant's proposed plan. The court DIRECTS defendant to implement its proposed plan within 90 days of the date of this order. Any future challenges to the new parole procedures must be brought in an independent action. See id. Because the court has adopted defendant's proposed plan, plaintiff's motion to appoint a special master (DE 89) is DENIED as MOOT. The Clerk of Court is DIRECTED to close this case.

SO ORDERED, this the 1 day of November, 2017.


TERRENCE W. BOYLE
United States District Judge