

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

<b>PEOPLE FIRST OF TENNESSEE, et al.,</b>	)	
	)	
<b>Plaintiffs,</b>	)	
	)	
<b>v.</b>	)	<b>No. 3:95-1227</b>
	)	<b>(cons. w/ 3:96-1056)</b>
	)	<b>Judge Waverly D. Crenshaw, Jr.</b>
<b>CLOVER BOTTOM DEVELOPMENTAL CENTER, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

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**AGREED ORDER GRANTING JOINT MOTION TO VACATE ALL  
OUTSTANDING INJUNCTIVE RELIEF AND DISMISSING CASE WITH PREJUDICE**

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Before this Court is the Joint Motion to Vacate All Outstanding Injunctive Relief and Dismissing Case with Prejudice (ECF No. 1205) (the “Joint Motion to Dismiss”). As indicated by the title of the filing, no party opposes the Joint Motion to Dismiss; to the contrary, all parties agree that dismissal is appropriate because it is uncontroverted that Defendants, Clover Bottom Developmental Center, et al. (“State Defendants” or “Defendants”) have completed and fulfilled their obligations under the Exit Plan (ECF No. 1138-1) (the “Exit Plan”). The Exit Plan is an agreement, ordered by the Court, that by its very terms was designed to lead to dismissal of the litigation upon the completion of objective and measurable criteria by State Defendants. [See Exit Plan, p.1)]. The Exit Plan was developed through intensive negotiations conducted under the supervision of Magistrate Judge Griffin. Further, since the Exit Plan was approved by this Court, Defendants effort and progress at meeting the obligations that, if met, would lead to

dismissal have been closely monitored by the Court through the assigned magistrate judge, first Judge Griffin and, upon her retirement, Judge Holmes. As described in detail below, together Magistrate Judges Griffin and Holmes have entered Report and Recommendations (“R&Rs”) finding that State Defendants have completed all material obligations of the Exit Plan.

On January 29, 2015, after an evidentiary hearing and with notice of the hearing being provided through publication in all regions of Tennessee, the Exit Plan was approved by this Court pursuant to Rule 23(e)(2) of the Federal Rules of Civil Procedure. [*See* Order, ECF No. 1137, and Memorandum, ECF 1136, filed on January 29, 2015]. On that same day, the Court entered the Agreed Order. (*See* ECF No. 1138 (the “2015 Agreed Order”)].

The 2015 Agreed Order describes State Defendants’ responsibilities associated with the Exit Plan, sets regular compliance conferences with the magistrate judge to oversee State Defendants’ progress in complying with the requirements of the Exit Plan, establishes a system for the entry of Reports and Recommendations by the magistrate judge when it is determined that material provisions of the Exit Plans have been completed by State Defendants, and establishes when partial and complete dismissal of the case is required. *Id.* The 2015 Agreed Order contemplates that the captioned action will be resolved by the completion of all material provisions of the Exit Plan in two phases: first, State Defendants are required to meet all material obligations in Sections II-IX; and, second, they must comply with all material obligations of Section X. *Id.*, ¶1. Section X of the Exit Plan sets forth the specific criteria under which Defendants’ last congregate care institution, Greene Valley Developmental Center (“GVDC”), would be closed. (*See* Exit Plan, Section X).

With regard to the first phase, the 2015 Agreed Order provides that upon the completion of the material obligations of Sections II-IX of the Exit Plan, the Court will enter an order

“vacating all outstanding injunctive relief in the CBDC Litigation except that relief that applies to Greene Valley Developmental Center ([the injunctive relief remaining in place] shall be referred to as the ‘GVDC Injunctive Relief’).” *Id.* at ¶2. On December 15, 2015, the Magistrate Judge issued a R&R finding, in part, that the State Defendants had complied with all material provisions of Section II-IX of the Exit Plan (ECF No. 1158) and that R&R was accepted and approved by Order of this Court on January 8, 2016 (ECF No. 1160). In accordance with the terms of the 2015 Agreed Order, paragraphs 2 and 8, this Court then entered the Agreed Order Vacating Injunctive Relief and Partially Dismissing Case with Prejudice. [*See* Order, ECF No. 1162, entered on January 15, 2016 (the “Order of Partial Dismissal)].

With regard to second phase, the 2015 Agreed Order provides that upon the completion of the material obligations of Section X of the Exit Plan, the Court “shall vacate the GVDC Injunctive Relief and finally and fully dismiss [the case] with prejudice in all respects.”<sup>1</sup> On June 30, 2017, the Magistrate Judge issued a R&R finding that State Defendants had complied with all material provisions of Section X of the Exit Plan . [*See* ECF No. 1203 (the “June 30 R&R”)]. The parties did not file an objection to the June 30 R&R and, hence, it became final and binding on July 15, 2017. Moreover, based upon this Joint Motion and the submission of the Agreed Order attached as Exhibit A, the parties agree that State Defendants have completed Section X of the Exit Plan, as they agreed in 2016 that the State had completed Sections II-IX of the Exit Plan.

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<sup>1</sup> The 2015 Agreed Order establishes that Section X must be completed by June 30, 2016. (*See* 2015 Agreed Order, ¶3). With regard to that deadline and keeping in mind that it revolves around the closure of GVDC, the parties decided that the safety of the class members transitioning from GVDC was more important than closing it by an arbitrary date. Thus, the 2015 Agreed Order also provides State Defendants with the right unilaterally to extend the deadline for completion of Section X through June 30, 2017. (*Id.* at ¶19). The State provided notice to the parties and the Court that it was exercising that right in two filings. [*See* Notices filed on June 29, 2016, and December 28, 2016, ECF Nos. 1174 and 1191]. Thus, the operative deadline for completing the material provisions of Section X was June 30, 2017.

On *de novo* review of the Magistrate Judge's June 30 R&R and the R&R issued on June 27, 2017 (ECF No. 1201), the Court hereby **ADOPTS** both. The Court **FINDS** that Defendants have complied with and completed all material provisions in Section X of the Exit Plan.

Based on these findings and the entire record in this cause, IT IS ORDERED, ADJUDGED AND DECREED that:

1. Pursuant to paragraphs 3 and 17 of the 2015 Agreed Order approving the Exit Plan, all remaining outstanding injunctive relief entered in this case, which previously had not been vacated, is hereby **VACATED**;
2. Pursuant to paragraphs 3 and 17 of the 2015 Agreed Order approving the Exit Plan, this case is finally and forever **DISMISSED WITH PREJUDICE** in all respects.
3. The Court further finds that, as dismissal is based on the merits, this is not a settlement, voluntary dismissal or compromise, and, therefore, separate notice to the class is not required;
4. The Court shall continue to exercise jurisdiction in this matter solely and exclusively, and for a limited period of time, to resolve any claim or disputes regarding attorney fees related to this matter. Parties seeking attorney fees shall file an appropriate motion, along with any necessary supporting documentation, within 45 days of the entry of this Order. Once any issues with attorney fees are resolved, or 45 days after the entry of this Order if no motion for fees is filed by any party, this Court shall relinquish jurisdiction of this sole, remaining issue.

IT IS SO ORDERED.

  
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WAVERLY D. CRENSHAW, JR.  
CHIEF UNITED STATES DISTRICT COURT JUDGE