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UNITED STATES DISTRICT COURT,
CENTRAL DISTRICT OF CALIFORNIA

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R. VANKE, individually and
as the representative of the
class of persons defined in
averment 16,

Plaintiffs,

v.

SHERMAN BLOCK; COUNTY OF LOS
ANGELES,

Defendants.

Case No. CV 98-4111 DDP (SHx)
ORDER DENYING PLAINTIFFS'
(1) **MOTION TO CONVERT
PRELIMINARY INJUNCTION INTO
PERMANENT INJUNCTION;**
(2) **MOTIONS FOR FINDING OF
VIOLATION OF PRELIMINARY
INJUNCTION AND FOR CONTEMPT
OF COURT FOR VIOLATION OF
INJUNCTION (4 MOTIONS); AND**
(3) **MOTION TO ESTABLISH
PROCEDURE TO MONITOR
COMPLIANCE WITH INJUNCTION**

[Motions filed on 3/29/00]

This matter comes before the Court on the following six
motions: (1) plaintiffs' motion to convert a preliminary injunction
into a permanent injunction; (2) four motions for a finding of
violation of the preliminary injunction and for contempt of court
for violation of injunction (each filed on behalf of a different
class member); and (3) plaintiffs' motion to establish a procedure
to monitor compliance with the injunction. After reviewing and
considering the materials submitted by the parties, and hearing
oral argument, the Court adopts the following Order.

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1 I. Background

2 On November 7, 1998, the Court issued a preliminary injunction
3 enjoining various practices and policies of the Los Angeles County
4 Sheriff's Department. Specifically, the Court ordered:

5 that the defendants and their officers, agents, servants,
6 employees, and all others in active concert or
7 participation with them are enjoined during the pendency
8 of this action from holding individuals who have been
9 acquitted of the charges on which they are being held, or
10 whose release has been ordered by a court, beyond the
11 period of time that is required to perform the
12 administrative steps incident to release, including a
13 check for wants and holds known to the defendants at the
14 conclusion of the administrative steps incident to
15 release, but not including additional time for the
16 receipt or processing of wants and holds not known to the
17 defendants at the conclusion of the administrative steps
18 incident to release.

19 (11/7/98 Order, pp. 45-46.)

20 There have been no significant filings or developments in this
21 action since the Court issued the preliminary injunction.

22 II. Motion to Convert Preliminary Injunction into Permanent
23 Injunction

24 A. Permanent Injunction

25 The plaintiffs' brief memorandum of points and authorities
26 simply states:

27 Defense counsel has indicated to plaintiffs' counsel that
28 defendants have changed their policies, practices,
procedures, and customs to come into compliance with the
[C]ourt's preliminary injunction, and based thereon,
plaintiffs request that the preliminary injunction be
made permanent, in order to protect the rights sought to
be protected and to provide a mechanism for enforcement
of those [r]ights in [the] future.

(Mot. to Convert, p. 3.) The plaintiffs cite no authority in
support of their request to convert this Court's preliminary

1 injunction into a permanent injunction. The plaintiffs filed no
2 reply to the defendants' opposition to this motion.

3 The defendants argue, and the Court agrees, that, absent a
4 judgment on the merits, the plaintiffs are not entitled to
5 permanent injunctive relief. The plaintiffs must succeed on the
6 merits of their claims to be entitled to a permanent injunction.
7 See Coleman v. Wilson, 912 F. Supp. 1282, 1311 (E.D. Cal. 1995).
8 Here, the plaintiffs have not succeeded on the merits of their
9 claims through a motion for summary judgment or a trial, and
10 therefore are not entitled to a permanent injunction. Thus, the
11 Court denies the plaintiffs' motion to convert the preliminary
12 injunction into a permanent injunction.¹

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14 B. Defendants' Argument for Dismissal Raised in Opposition

15 The defendants also argue that, in light of the plaintiffs'
16 concession "that 'defendants have changed their policies,
17 practices, procedures, and customs to come into compliance with the
18 [C]ourt's preliminary injunction'," this action is moot, and there
19 is no longer a need for injunctive relief. (Defs.' Opp. to Mot. to
20 Convert at p. 3 (citing Pls.' Mot.).)

21 The defendants have submitted evidence demonstrating that
22 shortly after the Court issued the preliminary injunction in this

23

24 ¹ The defendants also note that plaintiffs' counsel did not
25 sign the copies of the notices of motion discussed in this Order,
26 the accompanying memoranda of points and authorities, or the
supporting declarations that he served on the defendants and
submitted to the Court.

27 The Court advises plaintiffs' counsel that all copies
28 submitted to the Court and served on opposing parties must indicate
that the filed original has been signed, as required by Federal
Rule of Civil Procedure 11 and Local Rule 3.1.

1 matter, the defendants decided "that the Los Angeles County
2 Sheriff's Department would comply with the preliminary injunction."
3 (Jackson Decl., ¶ 7.) The Commander of the Correctional Services
4 Division, Charles M. Jackson ("Jackson"), then "modified the
5 release procedures at [the Inmate Reception Center] to comply with
6 the preliminary injunction ordered by the Court." (Id. at ¶ 8.)
7 Jackson has represented to the Court that, since that time, the
8 Sheriff's Department has complied with the preliminary injunction
9 issued in this action, and that the Sheriff's Department "has no
10 intention of returning to the old policy and procedure prohibited
11 by the preliminary injunction". (Id. at ¶¶ 9-10.)

12 The plaintiffs have submitted no evidence to controvert
13 Jackson's representations. Therefore, the defendants may raise a
14 mootness argument in a motion for summary judgment. However, the
15 plaintiffs have requested, and are entitled, to conduct discovery
16 prior to resolution by the Court of any summary judgment motion.

17
18 **III. Motions for Finding of Violation of Preliminary Injunction and**
19 **For Contempt of Court for Violation of Injunction**

20 The plaintiffs have filed four separate, but nearly identical,
21 motions, each pertaining to a separate class member. In these
22 motions, the plaintiffs request that the Court find that the
23 defendants have violated the Court's preliminary injunction, and
24 that the defendants are in contempt of Court.

25 However, the plaintiffs provide no evidence of defendants'
26 alleged violation of the terms of the preliminary injunction. The
27 plaintiffs merely argue that each class member was ordered released
28 by a Los Angeles Superior Court judge on one day, and was not

1 released until the following day. (See Bell Mot., p. 6; Berry
2 Mot., p. 6; Hart Mot., p. 6; Mortimer Mot., p. 6.) The plaintiffs
3 have presented no evidence in support of these contentions.

4 Moreover, even if the plaintiffs' contentions are true, they
5 do not support a finding that the defendants have violated the
6 terms of the Court's preliminary injunction. The preliminary
7 injunction bars the defendants from detaining individuals acquitted
8 or ordered to be released

9 beyond the period of time that is required to perform the
10 administrative steps incident to release, including a
11 check for wants and holds known to the defendants at the
12 conclusion of the administrative steps incident to
13 release, but not including additional time for the
14 receipt or processing of wants and holds not known to the
15 defendants at the conclusion of the administrative steps
16 incident to release.

17 (11/7/98 Order, pp. 45-46 (emphasis added).) Here, the plaintiffs
18 have made no argument – and have presented no evidence – that the
19 defendants over-detained the four class members “beyond the period
20 of time that is required to perform the administrative steps
21 incident to release” or in order to receive or process “wants and
22 holds not known to the defendants at the conclusion of the
23 administrative steps incident to release”. (Id.)

24 Therefore, the Court denies these four motions.

25 **IV. Motion to Establish Procedure to Monitor Compliance with**
26 **Preliminary Injunction**

27 The plaintiffs have requested that the Court establish a
28 procedure to monitor the defendants' compliance with the Court's

1 preliminary injunction. Specifically, the plaintiffs request that
2 the Court order as follows:

- 3 1. Plaintiffs' counsel be provided the following
4 information by the fifteenth of each month for
5 preceding month:
 - 6 A. The name of each person detained in the Los
7 Angeles County Jail system who was ordered
8 released from custody by a judge;
 - 9 B. Next to the name of each such person,
 - 10 i. The date release was ordered, and
 - 11 ii. The date release actually was made;
- 12 2. For each named person with respect to whom the date
13 of ordered release is not the same as the date of
14 release, a statement, under penalty of perjury from
15 a person with personal knowledge thereof, of all
16 reasons the person was not released on the date
17 release was ordered;
- 18 3. For each named person with respect to whom the dates
19 of ordered release and actual release are not the
20 same, the person's last known address(es) and
21 telephone number(s).

22 (Mot. to Estab. Proc., p. 7.)

23 The Court denies this motion. The plaintiffs submitted no
24 evidence in support of their motion that the defendants have failed
25 to comply with the preliminary injunction. In opposition to the
26 instant motion, the defendants have presented evidence that they
27 have been complying with the injunction, and that they have no
28 intention of reinstating or adopting any policies that would
violate the terms of the injunction. The plaintiffs submitted no
reply argument and no evidence contradicting the defendants'
evidence of compliance.

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1 V. Conclusion

2 For the foregoing reasons, the Court denies the plaintiffs'
3 motions. The Court has set a scheduling conference, pursuant to
4 Rule 16(b) of the Federal Rules of Civil Procedure, to be held on
5 June 11, 2001.

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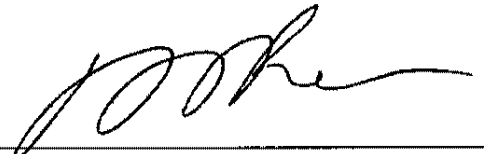
7 IT IS SO ORDERED.

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10 Dated: _____

4-26-01



DEAN D. PREGERSON
United States District Judge

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