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4 Attorneys for Applicant

5  
6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE EASTERN DISTRICT OF CALIFORNIA

8 DARRIL HEDRICK, DALE ROBINSON, )  
9 KATHY LINDSEY, MARTIN C. CANADA, )  
10 DARRY TYRONE PARKER, individually and )  
on behalf of all others similarly situated, )

11 Plaintiffs, )

12 vs. )

Case No.: 2:76-cv-00162-GEB-EFB

13 MEMORANDUM IN SUPPORT OF )  
14 MOTION TO TERMINATE CONSENT )  
15 DECREE )

16 JAMES GRANT, as Sheriff of the Yuba )  
17 County; Lieutenant FRED J. ASBY, as Yuba )  
18 County Jailer ; JAMES PHARRIS, ROY )  
LANDERMAN, DOUG WALTZ, HAROLD J. )  
19 "SAM" SPERBECK, JAMES MARTIN, as )  
members of the YUBA COUNTY BOARD OF )  
20 SUPERVISORS, )

21 Defendants. )

22 The County of Yuba, State of California, has made application for an order terminating a  
23 Consent Decree entered by this Court in 1979. The factual background and the reasons for this  
24 request are more fully set out in this Memorandum.  
25

1 **Background**

2 On March 24, 1976 this lawsuit was filed on behalf of the plaintiffs listed in the caption.  
3 The lawsuit had to do with the conditions of confinement in the Yuba County Jail. The plaintiff  
4 class was primarily represented by California Rural Legal Assistance, Inc., although a private  
5 firm represented one or more of the named plaintiffs. Yuba County, on behalf of all defendants,  
6 answered the complaint. The case was certified as a class action in July of 1976. The litigation  
7 proceeded along, with a preliminary injunction being issued with respect to some claims and  
8 partial summary judgment being granted to the Plaintiffs as to some aspects of the lawsuit. In  
9 November of 1978 the parties stipulated to the entry of a Consent Decree containing a  
10 comprehensive resolution (54 pages) of most of the Plaintiffs' claims. The Court approved the  
11 stipulated Consent Decree in May of 1979 and that Consent Decree has been in place ever since.  
12 Under the terms of the Consent Decree, the Court was to retain jurisdiction until issues not  
13 addressed by the Consent Decree were resolved and the Court determined a duration for the  
14 Consent Decree. The only issues that remained to be resolved had to do with "contact visitation"  
15 and attorneys fees. Those issues were resolved later in 1979 and in 1980. As best that present  
16 counsel for the County of Yuba can determine, no further action of significance took place in the  
17 case, and a Consent Decree went into effect with no stated duration or "sunset provision". On  
18 October 6, 1987 the Court entered a minute order administratively terminating the action without  
19 prejudice to the right of the parties to reopen the proceedings for the entry of any stipulation,  
20 motion, or order, or for any other purpose required to obtain an interim or final determination of  
21 the litigation.  
22  
23

24 Yuba County has been living with the Consent Decree ever since, even though times  
25 have changed and circumstances have drastically altered. The Yuba County Jail, at the time of  
the original lawsuit, was housing a maximum of 150 inmates—the Jail was substantially

1 remodeled and expanded in 1995; its capacity at present is 428 inmates. The number of housing  
2 units has increased substantially in the Jail, and inmate processing and handling practices have  
3 substantially changed to deal with the increased population and such issues as street gang  
4 segregation. Part of the original litigation dealt with the “deep felony unit” in the Yuba County  
5 Jail, a section of the old jail where serious felony offenders were held. That section of the jail  
6 still exists, but is used as housing for inmates working in the kitchen—the doors to the unit are  
7 not locked and the inmates residing in that unit come and go relatively freely inside the jail. The  
8 Decree contemplates a staffing of 19 jail staff; current staffing is almost 60 employees (the  
9 current medical staff alone is almost as large as the entire staffing contemplated by the Decree).  
10 The Decree requires exercise equipment that is no longer made and law library materials that no  
11 one uses any longer. While the Decree may have made some sense in the 1970’s, much of it is  
12 as relevant today as bell bottom pants and disco music.

13 CRLA monitored the Consent Decree until 1996 (see letters attached as Exhibits A and  
14 B), but then ceased. Nevertheless, the Consent Decree has never been set aside and continues to  
15 exist, with the Yuba County Jail scrupulously making the Decree available to inmates and  
16 responding to inmate complaints allegedly based on the Decree.

17 As far as present counsel is aware, the Consent Decree has never been modified to reflect  
18 changed conditions or circumstances. Conditions in county jails are regulated by California  
19 Code of Regulations, Title 15, section 1000, et seq. and by the building standards in CCR, Title  
20 24 (CCR’s). Unlike the Consent Decree, the CCR’s are subject to continual review and  
21 modification. The CCR’s appear to address every aspect of the conditions or issues the Consent  
22 Decree sought to remedy. Unlike the Consent Decree, however, the CCR’s are relevant and  
23 current and actually address the issues of modern penal administration. The CCR’s, when  
24 examined, appear to have more stringent standards than those addressed by the Consent Decree.  
25 The Yuba County Jail is inspected every two years by the Bureau of State and Community

1 Corrections—while those inspections have revealed occasional minor compliance problems, the  
2 Yuba County Jail has been found to be largely compliant with applicable regulations.

3  
4 **The Prison Litigation Reform Act**

5 In 1996 the United States Congress passed the Prison Litigation Reform Act (PRLA),  
6 most of which is found in 18 USC §3626. Part of the PLRA consists of provisions authorizing  
7 the termination of previously granted prospective relief, such as the Consent Decree in this case.  
8 Indeed, the principal purpose of the PRLA was to get the Federal Courts out of the day to day  
9 regulation of local jail and prison conditions. “Institutional consent decrees are ‘not intended to  
10 operate in perpetuity’ *Board of Education v. Dowell*, 498 U.S. 237, 248, 112 L. Ed. 2d 715, 111  
11 S. Ct. 630 (1991). The PLRA strongly disfavors continuing relief through the federal courts;  
12 indeed, its ‘fundamental purpose’ was to extricate them from managing state prisons.” *Guajardo*  
13 *v. Texas Dept. of Criminal Justice* (5<sup>th</sup> Cir. 2004) 363 F.3d. 392, 394, citing *Cagle v. Hutto*, 177  
14 F.3d 253, 257 (4th Cir. 1999), *cert. denied*, 530 U.S. 1264, 147 L. Ed. 2d 987, 120 S. Ct. 2723  
15 (2000). The PRLA essentially establishes two methods under which a party may seek  
16 termination of a consent decree or other type of prospective relief. Under 18 USC §3626(b)(1) an  
17 order for prospective relief is terminable after the passage of a specified period of time:

18  
19 (1) Termination of prospective relief.

20 (A) In any civil action with respect to prison conditions in which  
21 prospective relief is ordered, such relief shall be terminable upon the  
22 motion of any party or intervener—

- 23 (i) 2 years after the date the court granted or approved the  
24 prospective relief;  
25 (ii) 1 year after the date the court has entered an order denying  
termination of prospective relief under this paragraph; or  
(iii) In the case of an order issued on or before the date of  
enactment of the Prison Litigation Reform Act, 2 years  
after the date of enactment.

1 Under 18 USC §3626(b)(2) prospective relief orders are immediately terminable where the court  
2 granting that relief had not included a specific finding that the relief ordered was narrowly drawn  
3 and the least intrusive means possible to correct the violation of federal rights occasioning the  
4 relief ordered:

5 (2) Immediate termination of prospective relief. In any civil action with respect  
6 to prison conditions, a defendant or intervener shall be entitled to the  
7 immediate termination of any prospective relief if the relief was approved or  
8 granted in the absence of a finding by the court that the relief is narrowly  
9 drawn, extends no further than necessary to correct the violation of the  
10 Federal right and is the least intrusive means necessary to correct the  
11 violation of the Federal right.

12 The PRLA refers to “prison conditions”, but it is clear from the definitions section of the statute  
13 that the term “prison” includes local facilities, such as county jails, for purposes of the  
14 application of the statute. See 18 USC §3626(g)(5). The PRLA thus authorizes termination of  
15 previously granted prospective relief either after the passage of a certain amount of time, or  
16 where the order failed to make specific findings that the relief ordered was narrowly drawn and  
17 the least intrusive means possible to remedy the violation of a Federal constitutional right. The  
18 PRLA has withstood various constitutional and procedural challenges. See, eg., *Miller v. French*  
19 (2000) 530 U.S. 327, 120 S.Ct. 2246, 147 L.Ed.2d 326; *Hallett v. Morgan* (9<sup>th</sup> Cir., 2002) 296  
20 F.3d 732, 742-743; *Gilmore v. California* (9<sup>th</sup> Cir., 2000) 220 F.3d 987, 1006.

## 21 Argument

22 Yuba County submits that it is entitled to termination of the Consent Decree in this case  
23 under both 18 USC §3626(b)(1) and 18 USC §3626(b)(2). Relief is appropriate under section  
24 (b)(1) as it has obviously been more than two years since the Consent Decree was approved by  
25 the Court. Further, in reliance on section (b)(2), when one examines the terms of the Consent  
Decree, it is apparent that there are no specific findings of any Federal constitutional violations,  
that the relief was narrowly drawn, that the relief extended no further than necessary to correct

1 violations of Federal rights, or that the relief ordered was the least intrusive means necessary to  
2 correct the violation of any Federal right. The County suggests that the Court cannot, either  
3 legally or factually, go back and “fill in” the order with findings that would be necessary to  
4 sustain the Consent Decree. “[T]he PLRA does not provide an avenue for district courts to  
5 make, *post hoc* and *nunc pro tunc*, the findings required by §3626(b)(2) in order to avoid  
6 termination of a consent decree.” *Cagle v. Hutto*, supra, 177 F.3d 253, 257 (4th Cir. 1999), cert.  
7 denied, 530 U.S. 1264, 147 L. Ed. 2d 987, 120 S. Ct. 2723 (2000). The County thus submits that  
8 the Consent Decree is terminable, under 18 USC §3626(b)(1) simply due to the passage of time.  
9 Further, the County submits that it is entitled to immediate termination of the Consent Decree, as  
10 it does not contain the findings that are necessary to sustain it.  
11

12 **Conclusion**

13 For the reasons stated above, the County of Yuba hereby requests an order terminating  
14 the Consent Decree previously issued in this case.  
15

16 Dated this 13 day of May, at Marysville, California.  
17

18 s/John R. Vacek  
19 John R. Vacek  
20 Chief Deputy County Counsel  
21 County of Yuba  
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23  
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May 3, 2013

John R. Vacek  
Chief Deputy County Counsel  
County of Yuba  
915 8<sup>th</sup> Street, Suite 111  
Marysville, CA 95901

Re: Hedrick et. Al. v. Grant et. al.;USDC E.Dist. Cal. S-76-162 TJM

Dear Mr. Vacek:

You and I spoke briefly on April 22, 2013, when you asked whether California Rural Legal Assistance, Inc. ("CRLA") would consent to termination of the Consent Decree in the Hedrick case, and I agreed to review your written request and respond. I have consulted with CRLA litigation directors and I have been advised that the United States District Court in the Eastern District of California closed the case administratively quite some time ago, and that CRLA has not monitored the jail consent decree since 1996 (see copy of letter from Ilene J. Jacobs, CRLA to Captain Gerald Read, Yuba County Jail Division, of August 1, 1996, attached). CRLA does not represent any plaintiff in the litigation, thus we cannot, and do not take any position with respect to the Consent Decree.

Please do not hesitate to contact us should you have other questions concerning this matter.

Sincerely,  
CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

Vicki E. Cody  
Directing Attorney

cc: Ilene J. Jacobs, Director of Litigation, Training & Advocacy  
Marcela Ruiz, Deputy Director



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*Executive Director*

August 1, 1996


Captain Gerald Read  
Yuba County Jail Division  
Yuba County Jail  
215 5th Street  
Marysville, CA 95901

Re: Yuba County Jail Grievances

Dear Captain Read:

I write to advise you that due to funding constraints and restrictions, California Rural Legal Assistance will begin to refer out jail complaints when appropriate rather than continue to handle them in-house. You might receive, therefore, an occasional letter regarding an inmate complaint from other representatives.

Sincerely,

  
Ilede J. Jacobs