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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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

Plaintiffs,

v.

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

Defendants.

2:76-cv-00162-GEB-EFB

**ORDER DENYING MOTION TO
TERMINATE; AND SCHEDULING STATUS
CONFERENCE**

On May 13, 2013, Defendants filed a motion to terminate the Consent Decree entered in this case on May 2, 1979. Defendants make the conclusory argument in the motion that "Yuba County . . . is entitled to termination of the Consent Decree . . . under both 18 USC §3626(b)(1) and 18 USC §3626(b)(2)." (Motion to Terminate Consent Decree, 5:20-22, ECF No. 96.) When considering the motion, the Court issued an Order filed March 26, 2014, in which it "question[ed], *sua sponte*, whether [the Consent

1 Decree] should be modified or terminated, in whole or in part,
2 under Federal Rule of Civil Procedure ("Rule") 60(b)," and
3 provided each party an opportunity to brief the issue. (Order,
4 1:25-27, ECF No. 130.) That Order concerned, inter alia, whether
5 "contractual surplusage" existed in the Consent Decree. Gilmore
6 v. People of the State of California, 220 F.3d 987, 1006 (9th
7 Cir. 2000).

8 Plaintiffs responded to that Order stating that the
9 majority of the consent decree should "be maintained at least in
10 the areas of outdoor exercise, medical care, grievance
11 procedures, hygiene, and housing and safety." (Pls.' Br. on
12 Whether the Consent Decree Should Be Modified under Rule 60(b)
13 ("Pls.' Br."), 1:22-24, ECF No. 133.)

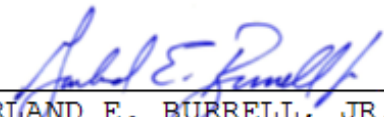
14 Defendants responded to that Order arguing that since
15 there has been no judicial enforcement of any aspect of the
16 Consent Decree since its issuance, it is evident that its
17 purposes have been achieved. Plaintiffs rejoined indicating that
18 their prior counsel, California Rural Legal Assistance, Inc.,
19 "believed itself to be incapable of taking any action on behalf
20 of Plaintiffs since at least 1996." (Pls.' Br. 2:2-4.) Plaintiffs
21 also submitted evidence that they opine demonstrates that the
22 majority of the Consent Decree should not be terminated.

23 In light of each party's response the Order, the Rule
24 60(b) *sua sponte* inquiry is disregarded, and decision issues on
25 Defendants' motion to terminate the Consent Decree. It is evident
26 that Defendants have failed to carry their "burden . . . to
27 demonstrate that there are no ongoing constitutional violations,
28 that the relief ordered exceeds what is necessary to correct an

1 ongoing constitutional violation, or both." Graves v. Arpaio, 623
2 F.3d 1043, 1048 (9th Cir. 2010). Therefore, Defendants' May 13,
3 2013 motion to terminate the consent decree is denied.
4 Accordingly, the hearing scheduled for April 8, 2014, is
5 converted to a Status Conference. If feasible, the parties shall
6 file a joint status report prior to the Status Conference, in
7 which the parties need only address the pertinent subjects in
8 Local Rule 240(a).

9 Further, Plaintiffs' request, (ECF No. 134), to file
10 under seal certain documents which Plaintiffs describe as
11 "evidence . . . demonstrat[ing] that the consent decree should
12 not be terminated," is denied since the referenced filing
13 concerns a motion that is no longer pending. (Pls.' Br. 2:6-7.)

14 Dated: April 2, 2014

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18 GARIAND E. BURRELL, JR.
19 Senior United States District Judge
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