

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff	:	
	:	
v.	:	1:04-CV-76 (WLS)
	:	
TERRELL COUNTY, GEORGIA, et al.,	:	
	:	
Defendants	:	
	:	

ORDER

Presently before the Court are Plaintiff’s Brief on remedial issues (Doc. 67), Defendant Terrell County’s Brief on remedial issues (Doc. 69), and Defendant Bowens’s Brief on remedial issues(Doc. 73). The parties filed these briefs in pursuant to the Court’s February 26, 2007 Order (Doc. 65).

Plaintiff submitted a detailed thirty-three (33) page proposed order to the Court as an attachment to their brief. (Doc. 67, attachment #1). Plaintiff contends that the plan outlined in their proposed order will satisfy the requirements of the Prison Litigation Reform Act, 18 U.S.C. § 3626 (a), and remedy existing constitutional violations at Defendants’ jail, while allowing Defendants a fair amount of flexibility in implementing the same. *Id.* Defendant Terrell County requests time to discuss a Consent Order with all parties in the case. (Doc. 69). It appears, however, that Plaintiff’s thirty-three (33) page Proposed Order (Doc. 67, attachment #1), filed simultaneously with Defendant Terrell County’s brief, encompasses all of the concerns addressed by Defendant Terrell County’s brief. (*See* Doc. 71). Therefore, additional time to discuss a Consent Order is not necessary. *Id.* Defendant Bowens adopts Plaintiff’s Proposed Order with the exception of paragraphs eighty-three (83) and eighty-nine (89). Defendant Bowens argues that if the Court were to adopt paragraph eighty-three (83), Defendants would be denied the right to confront noncompliance allegations and generally due process. Additionally, Defendant Bowens rejects paragraph eighty-nine (89) because adoption of this paragraph “would create an inherent problem of individuals misinterpreting the Order and using it in a manner that would

unduly interrupt the normal flow of administration with the jail.

On November 29, 2007, Plaintiff sent a letter to the Court, also filed, requesting a telephone conference with the Court and all parties. (Doc. 81). The Court granted Plaintiff's request and a telephone conference was held on December 13, 2007. At that time, the Court heard from Plaintiff, Defendant Terrell County, and Defendant Bowens concerning remedial issues in the case. The general consensus from all parties was that an order is needed from the Court so that each party is aware of its rights and responsibilities as Defendants work to comply with the Constitution. The Court fully considered the representations of each party via the aforementioned briefing and during the telephone conference.

Accordingly, the Court has this date separately executed and placed in force the Proposed Order of Plaintiff (Doc. 67, attachment #1), incorporated herein by reference. The Court rejects the proposed plan submitted by Defendant Terrell County, as Plaintiff's Proposed Order adequately addresses all of Defendant Terrell County's concerns. Also, the Court refuses to omit paragraph eighty-nine (89) as requested by Defendant Bowens. The Court's orders must be available for all individuals to know what rights and responsibilities they have under the same.

The Court agrees with Defendant Bowens, however, that paragraph eighty-three (83) is susceptible to misuse. It is reasonable for the Court to expect and require Defendants to obtain the assistance of technical experts. Therefore, to that extent, paragraph eighty-three (83) remains unchanged. However, Plaintiff is ordered to concede or consent in good faith to any of Defendants' proposed experts whom possess adequate technical certification, training and/or experience to conduct the relevant job. Accordingly, Plaintiff's Proposed Order (Doc. 67, attachment #1) is amended by reference to the extent that if any person objectively qualified by technical experience is rejected by Plaintiff, the Court reserves the right to hear argument regarding the same by all parties on the matter and approve or reject said proposed technical assistant.

The Court also reserves the right to amend this order as well as Plaintiff's Proposed Order executed by the Court if the same is used by any party for the purpose of harassment or a provision proves to be ineffective or inefficient at achieving the goal of correcting the

constitutional deficiencies in Defendants' jail previously found by the Court and aiding Defendants in complying with the United States Constitution. The Court requires and expects each party to act and cooperate with each other party in good faith in compliance with the Court's orders.

SO ORDERED, this 21st day of December, 2007.

/s/W. Louis Sands
THE HONORABLE W. LOUIS SANDS,
UNITED STATES DISTRICT COURT