



JC-ID-001-001

U.S. COURTS

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CAMERON S. BURKE,
CLERK. IDAHO

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

ROBERT WEBB, TERRY STERKENBURG,
TIMOTHY DRISCOLL, KENT HALL,
FRANK WALLMULLER, RUSSELL HOWARD,
ROBERT FRIEDLY, PEGGY KNOX,
BILL LOHR, JESSE FULLER,
individually, and for all other
persons similarly situated,

Plaintiffs,

Case No. Cv 91-0204-S-EJL

vs.

ORDER

ADA COUNTY, STATE OF IDAHO;
VAUGHN KILLEEN, individually
and in his capacity as Sheriff
of Ada County; GARY GLENN,
VERN BISTERFELT and JOHN BASTIDA,
Ada County Commissioners each
sued in his or her individually
and official capacities; RICHARD
VERNON, individually and in his
capacity as Director of the Idaho
Department of Corrections; and
their successors in office,

Defendants.

Pending before the Court in the above-entitled matter are cross motions regarding the Partial Consent Decree and Order ("Partial Consent Decree") that was entered in this case. Having fully reviewed the record, the Court finds that the facts and legal arguments are adequately presented in the briefs and record. Accordingly, in the interest of avoiding further delay, and because the Court conclusively finds that the decisional process would not be significantly aided by oral argument, this matter shall be decided on the record before this Court without oral argument.

The Court notes that the case is currently on appeal to the Ninth Circuit. The general rule is that this Court would lack jurisdiction over the pending motions while the case is appealed. Griggs v. Provident Consumer Discount Co., 459 U.S. 56, 58 (1982)(general rule, appellate court has jurisdiction over the case once a notice of appeal is filed). However, in this particular case the Court finds that it has jurisdiction to rule upon the pending motions as the Partial Consent Decree at issue in the motions was not appealed by the parties and is not before the Ninth Circuit as part of the appeal.

After a number of court rulings by this Court and United States Magistrate Judge Mikel H. Williams, the parties submitted to the Court the stipulated Partial Consent Decree regarding certain conditions at the Ada County Jail. In light of the history of this case, the settlement conferences that had been held relating to the Partial Consent Decree, and the court rulings issued prior to the stipulated Partial Consent Decree being submitted to the Court, the Court adopted the Partial Consent Decree on April 14, 1995.

The adoption of the Partial Consent Decree was prior to the April 24, 1996, effective date of the Prison Reform Litigation Act ("PLRA"), 18 U.S.C. § 3626. Section 3626(a) provides in part:

The court shall not grant or approve any prospective relief unless the court finds that such relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right, and is the least intrusive means necessary to correct the violation of the Federal right.

Section 3626(b)(2) provides:

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

The Defendants argue that pursuant to the mandatory language of § 3626(a) and (b)(2), this Court did not make the requisite findings required by the statute and the Partial Consent Decree should be immediately terminated. The Plaintiffs argue that the "magic words" of the statute were not used by the court (nor could they have been since the statute was enacted after the Court's adoption of the Partial Consent Decree), however, the findings were made indirectly via the previous court orders and the contested negotiations regarding tailoring the relief in the Partial Consent Decree. The Plaintiffs also argue the Defendants have waived their right to contest the Partial

Consent Decree. Finally, Plaintiffs argue that the Partial Consent Decree should not be terminated, that portions of the PLRA are unconstitutional and that the Plaintiffs need to be able to effectively monitor the Partial Consent Decree.

The PLRA is being analyzed by a number of courts across the country to determine if the PLRA or portions thereof are unconstitutional. Without deciding the constitutionality of the PLRA and specifically the automatic stay provision of the PLRA, the Court makes the following ruling. The Court finds that the requirements of § 3626(a) were satisfied when the Court approved and adopted the Partial Consent Decree on April 14, 1995. This finding is made only after considering in depth the history of this case, the record and the facts surrounding the stipulated Partial Consent Decree being submitted to the Court. It is understandable that the Court would not have used the "magic words" of the PLRA in adopting the Partial Consent Decree since the PLRA did not exist when the Partial Consent Decree was adopted. The Partial Consent Decree was stipulated to by the parties before being submitted to the Court and because of the stipulation, the Court did not find it necessary to create a record (specifically stating the type of findings now required by the PLRA) prior to adopting the stipulated consent decree. The parties and the Court were well aware of the prior court rulings in this case and the violations that had been noted by the Court.

In all reality, the requisite findings were made by the prior court rulings and the stipulated relief presented by the parties. There is no specific requirement in the PLRA that the requisite findings need to be included within the body of the consent decree. Based upon the rulings by this Court and the magistrate judge prior to the approval of the Partial Consent Decree, violations of Federal rights were found. Additionally, the relief set forth in the Partial Consent Decree was narrowly drawn and extended no further than necessary to correct the violation of the Federal rights. This is evident from the nature of the negotiations related to the Partial Consent Decree, Magistrate Williams' involvement in the negotiations of the parties regarding the Partial Consent Decree and the fact that the record reflects that the County has never agreed to broad relief regarding any alleged violation in this case. Furthermore, the express language of the Partial Consent Decree supports that the relief stipulated to was narrowly drawn and extended no further than necessary to correct the alleged violations of the Federal rights.

Having made the above ruling that the Partial Consent Decree is not subject to immediate termination pursuant to § 3626(b)(2), the Court will now address the Plaintiffs' complaints that it is unable to effectively monitor compliance with the Partial Consent Decree. The nature and numerousness of the disputes evidenced in the parties' briefing are the best evidence that the methodology outlined in the Partial Consent Decree for resolving disputes was not well thought out. Neither counsel nor the Court have the time to conduct repeated hearings to resolve disputes that are going to be commonplace in a penal setting. Moreover, the Supreme Court has indicated that it is not the job of the federal courts to micro manage the daily operations of jails and prisons. Lewis v. Casey, 116 S. Ct. 2174 (1996).

Magistrate Judge Williams has been involved in this case from its inception. The Court believes the most efficient and effective way to modify the Partial Consent Decree to allow the parties to adequately monitor compliance and resolve disputes with such decree is to remand the matter to Judge Williams. Judge Williams will work with the parties, to the extent possible, to draft language to modify the Partial Consent Decree to address the parties' concerns raised in the motions before this Court. Unless the parties stipulate to the proposed modifications, Judge Williams will submit his proposed modifications to this Court in the form of a Report and Recommendation.

The Court notes pursuant to § 3626(b)(1), the prospective relief granted by the Partial Consent Decree is terminable upon motion of any party two years after the date of enactment of the PLRA. 18 U.S.C. § 3626(b)(1)(iii). In fact, the Partial Consent Decree may already be subject to a motion for termination pursuant to § 3626(b)(1)(i) even though the Partial Consent Decree provides for a term of three years. The Court also notes that the "[p]rospective relief shall not terminate if the court makes written findings that based upon the record that prospective relief remains necessary to correct a current and ongoing violation of the Federal right" 18 U.S.C. § 3626(b)(3). Additionally, the terms of the Partial Consent Decree provide that the decree may continue beyond April 14, 1998 if the Court determines that a longer fixed period of time is necessary. Accordingly, the Court would expect the parties to move for termination or continuation of the Partial Consent Decree in the very near future. If any motions are filed by the parties relating to the termination or continuation of the Partial Consent Decree, these matters are hereby referred to Magistrate Judge Williams.

Being fully advised in the premises, the Court **HEREBY ORDERS** that:

1) Plaintiffs' Motion for Supplemental Relief and to Enforce the Partial Consent Decree (Docket Nos. 459-1 AND 459-2) is **GRANTED IN PART AND DENIED IN PART**. The Partial Consent Decree shall be remanded to Magistrate Judge Williams to draft modifications to the language related to monitoring compliance and resolving disputes.

2) Defendants' Motion for Termination of the Partial Consent Decree (Docket No. 468-1) is **DENIED**.

3) Defendants' Motion to Clarify the Partial Consent Decree (Docket No. 468-2) is **GRANTED** consistent with this Court's remand to Magistrate Judge Williams.

4) Defendants' Motion to Stay Prospective Relief (Docket No. 468-3) is **DENIED**.

Dated this 10th day of March, 1998.



EDWARD J. LODGE
UNITED STATES DISTRICT JUDGE

United States District Court
for the
District of Idaho
March 10, 1998

* * CLERK'S CERTIFICATE OF MAILING * *

Re: 1:91-cv-00204

I certify that a copy of the attached document was mailed to the following named persons:

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Cameron S. Burke, Clerk

Date: March 11, 1998

BY: *Carol Vaughn*
(Deputy Clerk)