

1998 WL 245875

Only the Westlaw citation is currently available.
United States District Court, N.D. Illinois.

Kenya GARY and Tania Hayes, individually and on behalf of a class, Plaintiffs,

v.

Michael Sheahan, Sheriff of Cook County, in his individual and official capacity, Defendant.

No. 96 C 7294. | May 4, 1998.

Opinion

MEMORANDUM OPINION AND ORDER

COAR, District J.

*1 Presently before the court is the plaintiffs' petition for a rule to show cause. The plaintiffs in the instant case are a class of all female inmates who have been or will be subjected to a strip search at the Cook County Department of Corrections (Jail) upon returning to the Jail from court after there is a judicial determination that there is no longer a basis for their detention, other than to be processed for release.¹

¹ See *Gary v. Sheahan*, 1997 WL 201590, at *2-3 (April 18, 1997) (Coar, J.), for a discussion of the plaintiffs' factual allegations in the present case.

I. PROCEDURAL HISTORY

On March 17, 1997, this court entered the following preliminary injunction order:

All female inmate court returns with a mittimus indicating that as to their court case they should be discharged, are to be held in a holding cell while there is a computer check done of their records to determine whether there is a further need to hold them. If there is no further need to hold the female inmate court return, then her clothing shall be brought to her in the holding cell and she shall be given the option to either retrieve her personal items from her living

quarters or to recover her personal items and any other personal property from the property room at a later time.

On June 4, 1997, the plaintiffs filed a motion for a rule to show cause for failure of the defendant to comply with the preliminary injunction order [Doc. 73].² The plaintiffs' motion was the subject of an evidentiary hearing which was held by this court on June 17 and June 18, 1997. Subsequent to the hearing, on June 23, 1997, the defendant submitted to this court a proposal for compliance with the court's March 17, 1997 preliminary injunction order [Doc. 93]. In that document, the defendant explained that he had re-drafted request forms that explain the consequences of a female detainee's decision to return to her housing unit. (Proposal ¶ 3.) In addition, the defendant indicated that he was amenable to posting notices that would explain the options available to potential discharges. (Proposal ¶ 4.) In addition, the defendant explains that he is willing to prepare and disseminate these forms in both English and Spanish. (Proposal ¶ 5.)

² Affidavits were filed in support of plaintiffs' motion from Cynthia Taylor, Donna Reed, Michelle Dudzik, and Gina Giones.

On October 3, 1997, the plaintiffs filed a petition for rule to show cause against the defendant for failure to comply with this court's preliminary injunction order entered on March 17, 1997, or in the alternative to supplement the previously filed petition for rule to show cause [Doc. 109]. In support of their motion, the plaintiffs included an affidavit from Gina Watson, a paralegal for the attorneys representing the plaintiffs who attests that she responds to phone calls from classmembers. (Watson Aff. ¶ 2.) She includes a list of 28 women who claim that they were strip searched in violation of the court's preliminary injunction order after this court's contempt hearings in June, 1997. (Watson Aff. ¶ 4.)

On October 3, 1997, the defendant filed a statement explaining why he had not posted notice at certain designated jail and other locations [Doc. 113]. The statement attests that, as of October 3, 1997, the Sheriff's office has posted the notice at all designated locations pursuant to the court's order of September 15, 1997. On October 9, 1997, the plaintiffs filed a response to the defendant's statement [Doc. 114]. In their response, the plaintiffs argue that the defendant's statement should be "given little weight" by the court "given the inconsistent representations made by the defendant in regards to this matter." (Resp. ¶ 5.)

*2 On October 10, 1997, the plaintiffs filed a supplement to their petition for rule to show cause and a request for expedited discovery prior to the hearing [Doc. 119]. Attached to the petition are twelve affidavits of women who have been strip searched. The affidavits of the women allege that they were strip searched against their will in violation of the court's order. The dates that the women allege they were searched are between June 21, 1997 and September 24, 1997, with all but one violation occurring after the defendant's June 23, 1997 proposal for compliance with the court's order.

On October 20, 1997, the defendant filed a response to plaintiffs' supplement to the petition for rule to show cause and request for expedited discovery [Doc. 120]. According to the defendant, the plaintiffs' supplement has been rendered moot by the proactive injunctive measures instituted by Sheriff Sheahan at the jail. According to the defendant, after this court indicated on October 14, 1997 that the March order is clear, the Sheriff and his staff have "responded swiftly." (Def.'s Resp. at 7.) Effective October 17, 1997, the defendant contends he has "implemented the procedures set forth in the preliminary injunction order with respect to the processing of female court returns." (Def.'s Resp. at 6.) The defendant submitted documentation to the court of the following measures taken to implement this court's order: (1) a memorandum from Executive Director Velasco setting out the procedure outlined in the order; (2) a notice, written in English and Spanish,³ which is posted in the receiving room bullpens informing female court returns of the order; and, (3) two different consent forms, one for requesting to remain in R.C.D.C. and the other to return to

Division.⁴

³ The court notes that the Spanish version of the notice is an embarrassingly poor translation. As part of the defendant's proposal for compliance submitted to this court on June 23, 1997 the defendant indicated that he would prepare relevant forms and notices in English and Spanish. This court therefore orders the defendant to have the notice, as well as other applicable forms, professionally translated.

⁴ Neither of these forms have been translated to Spanish, as was promised by the defendant's June 23, 1997 proposal for compliance.

II. CONCLUSION

This court finds that following the June, 1997 hearing held on the plaintiffs' motion to show cause, the defendant has corrected many, if not all, of the violations alleged in the plaintiffs' show cause order. Therefore, the plaintiffs' motion to find the defendant in contempt and for sanctions is denied as moot. [Doc. 109]. However, this court directs the plaintiffs attorneys to submit an itemization of fees and costs incurred in preparing and presenting the motion.