

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

HELEN D. WOODSON, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 85-3049-JPO
	)	
DON ASH, et al.,	)	
	)	
Defendants.	)	

**ORDER**

This matter comes before the court on the motion of one of the defendants, the Unified Government of Wyandotte County/Kansas City, Kansas, for an order granting it relief from certain prospective injunctive relief entered by this court (**doc. 328**). The other defendant, Don Ash, Sheriff of Wyandotte County, Kansas, has joined in this motion (doc. 337). The plaintiffs have filed a response to the motion stating that they “do not offer any opposition to the motion terminating prospective relief” (doc. 338).

Defendants’ motion is brought pursuant to 18 U.S.C. § 3626 of the Prison Litigation Reform Act (“PLRA”). That statute governs remedies with respect to prison conditions and sets limits on the award and enforcement of injunctive relief to prisoners.<sup>1</sup> Subsection (b) of 18 U.S.C. § 3626 provides for the termination of prospective relief. That subsection provides: “In any civil action with respect to prison conditions in which prospective relief

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<sup>1</sup>*Biodiversity Assocs. v. Cables*, 357 F.3d 1152, 1167 (10th Cir. 2004).

is ordered, such relief shall be terminable upon the motion of any party or intervener . . . 2 years after the date the court granted or approved the prospective relief . . . [or] in the case of an order issued on or before the date of enactment of the Prison Litigation Reform Act, 2 years after such date of enactment.”

Defendants’ motion “seeks to terminate any and all prospective relief granted in this case as all such prospective relief was either: (1) entered prior to the enactment of the PLRA and more than two years has now elapsed; or, (2) two years have elapsed since the entry of the relevant prospective relief.”<sup>2</sup>

The orders defendants seek relief from were entered on March 30, 1987, June 4, 1993, August 19, 1994, January 8, 2001, and April 29, 2002.<sup>3</sup> The PLRA was enacted in 1994 and amended in 1996 and 1997. It has therefore been more than two years since the entry of any of these orders, and in the case of those entered before the PLRA was enacted, more than two years since the passage of the statute.

Once the requisite passage of time has been asserted, the burden then shifts to the

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<sup>2</sup>In the alternative, defendants argue that the permanent injunctive relief should be terminated under 18 U.S.C. § 3626(b)(2) because no factual findings were made that the relief was narrowly drawn, extends no further than necessary to correct the violation of certain rights, and is the least intrusive means of correction. Further, defendants claim that plaintiffs have not demonstrated that the limitation provision in 18 U.S.C. § 3626(b)(3) applies to stop the termination of prospective relief. Doc. 329 at 16–19. As discussed in this order, because the plaintiffs have not opposed defendants’ motion for termination under 18 U.S.C. § 3626(b)(1), the court need not evaluate the alternative arguments related to subsections (b)(2) or (b)(3).

<sup>3</sup>See doc. 329 at 14–15 (detailing the orders at issue and the relief set forth therein).

opposing party to establish that ongoing violations justify the continuation of relief.<sup>4</sup> As noted above, however, plaintiffs have not opposed defendants' motion. Thus, the court has no reason to disagree with the factual statements made by defendants, nor does the court have any justification for the continuation of the relief contained in the orders listed above. Accordingly, defendants' motion for termination of prospective relief is hereby granted.

IT IS SO ORDERED.

Dated September 13, 2011, at Kansas City, Kansas.

s/ James P. O'Hara  
James P. O'Hara  
U.S. Magistrate Judge

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<sup>4</sup>*Guajardo v. Texas Dept. of Criminal Justice*, 363 F.3d 392, 395–96 (5th Cir. 2004).