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United States District Court,
W.D. Tennessee, Western Division.

Darius D. LITTLE, Plaintiff,
v.
SHELBY COUNTY, TENNESSEE, et al.,
Defendants.

No. 96-2520 MI/A. | March 25, 2003.

Attorneys and Law Firms

Darius D. Little, NCC-Tiptonville, Northwest Correctional Center, Tiptonville, TN, pro se.

Adam F. Glankler, Robert L. Hutton, Glankler Brown, PLLC, Memphis, TN, for Plaintiff. Brian L. Kuhn, Debra L. Fessenden, Shelby County Attorney's Office, Kathleen Spruill, County Attorney's Office, Memphis, TN, for Defendants.

Opinion

ORDER REGARDING SHELBY COUNTY JAIL STAFFING PLAN

MCCALLA, J.

*1 This cause is before the Court¹ for determination of whether the Shelby County Jail Staffing Plan proposed on March 7, 2003, is consistent with the November 12, 1997 Order Granting Injunctive Relief to Remedy Unconstitutional Conditions in the Shelby County Jail as amended by the Consent Order Adopting Recommendations of Special Master, Final Order Granting Injunctive Relief as to Conditions in the Shelby County Jail docketed November 24, 1999. The proposed Shelby County Jail Staffing Plan must also be consistent with the Prison Litigation Reform Act, 18 U.S.C. § 3626, which requires that relief ordered in jail condition cases be narrowly drawn and extend no further than necessary to correct the violation of the federal right, and be the least intrusive means necessary to correct the violation of federal law. Each plan submitted in this case, beginning with the May 8, 1997 compromise plan, has been reviewed by prison experts and the parties to assure compliance with the orders of the Court and with the Act.

¹ In an opinion docketed December 22, 2000, Shelby County was found to be in contempt of Court for failing to implement remedial steps ordered by Judge Jerome

Turner in his November 12, 1997 Order Granting Injunctive Relief to Remedy Unconstitutional Conditions in the Shelby County Jail. In connection with that order, short-term, intermediate-term, and long-term remedial plans have been developed by the Defendants, the Special Master, and counsel for Plaintiff. *See, e.g.*, April 9, 2001 Notice of Filing Revised Shelby County Jail Compliance Plan; December 6, 2002 (Strategic Plan adopted by the Court); and Summary of Strategic Plan filed December 2, 2002.

The Court has consistently found, since the beginning of this case, that the factors that will reduce the risk of violence and sexual assault in the Shelby County Jail include (1) continual supervision of the inmates; (2) proper classification of inmates and separation of the inmates who are likely to assault other inmates; and (3) separation of the inmates who are likely to be victims of assault. In the Court's Findings of Fact dated November 12, 1997, the Court specifically observed, "Increased guard supervision reduces the likelihood of physical and sexual assault on inmates in the cell blocks. Continuous twenty-four hour supervision of the cell block should decrease physical and sexual assaults in the Shelby County Jail." Findings of Fact and Conclusions of Law at p. 6 (November 12, 1997).

The Order Granting Injunctive Relief to Remedy Unconstitutional Conditions of the Shelby County Jail entered November 12, 1997 contains detailed provisions concerning inmate supervision, cell block officer assignments, requirements for frequent observation of inmates by supervising officers, and other provisions to maximize inmate safety while giving substantial weight to any adverse impact on public safety or on the operation of the criminal justice system, including officer safety. These are factors that Congress contemplated being given substantial consideration in evaluating cases subject to the Prison Litigation Reform Act.

In support of the Jail Staffing Plan submitted on March 7, 2003, Defendant Shelby County, counsel for Plaintiff, and the Special Master cite changed conditions within the Shelby County Jail, including (1) a demonstrated consistent reduction in the population of the Shelby County Jail (jail population numbers show the jail population consistently below 2,000, as opposed to the much higher numbers in effect at the time of the entry of the prior orders of the Court); (2) conversion of indirect supervision in the Shelby County Jail to a direct supervision model and the accompanying reduction in violence within the facility; and (3) a reduction in the average number of annual sick days by deputy jailers from a per-jailer average of 31 days per year to a per-jailer average of 21 days per year (thus, increasing

availability of personnel for inmate supervision within the jail).

*2 Both the March 7, 2003 proposed Jail Staffing Plan and the March 7, 2003 Special Master's Report indicate that the proposed reduction in staff will not affect direct supervision and that no direct supervision posts will be eliminated.² The testimony at the March 14, 2003 hearing also supports the conclusion that several cell blocks (pods)³ within the jail have been closed as a result of the decreased jail population, thus, reducing the need for the current level of staffing.

² Jail Staffing Plan (March 7, 2003) at 2 (stating that the Jail Staffing Plan will have no impact on direct supervision and the direct supervision model will continue as instituted); *See* Report of Special Master (March 7, 2003) at 11 (stating that the Jail Staffing Plan will improve staff communication, accountability, and jail safety) and testimony of Charles Fisher (March 14, 2003).

³ The term "cell block" is defined in page 3 of the Order Granting Injunctive Relief (The Remedy) docketed November 12, 1997. "Cell blocks" are also frequently referred to as "pods."

Counsel for Plaintiff and the Special Master have joined in supporting the proposed Jail Staffing Plan. Moreover, Charles Fisher, the Special Master and expert retained in the case, has stated the opinion that a reduction in staffing may actually result in an increase in security within the facility for reasons articulated by him during the hearing on March 14, 2003.⁴

⁴ An Amicus Brief filed March 19, 2003, discusses the issue of modification of the existing remedial orders (*see* docket numbers 55 and 78) and proposes a gradual staff reduction through a hiring freeze and attrition, plus increased officer training. The Amicus Brief also

points out the existing serious problems regarding chain of command; scheduled training; lack of gang tracking software; policy manual deficiencies; and classification. These problems have also been discussed in the March 7, 2003 Report of the Special Master.

Where the parties in jail reform litigation agree on a proposed remedy, or modification of a proposed remedy, the Court will engage in limited review for the purpose of assuring continued compliance with existing orders and compliance with the Prison Litigation Reform Act. Where the parties propose a modification of jail personnel staffing requirements, but no modification of the previously existing, narrowly drawn, remedial orders of the Court, generally, the proposed modification may proceed since the methodology chosen by the parties and the expert usually also constitutes the least intrusive means necessary to correct the violation of federal rights.

Prospective relief in Prison Litigation Reform Act cases may not be granted or approved unless the Court finds that such relief is narrowly drawn, extends no further than is necessary to correct the violation of the federal right, and is the least intrusive means necessary to correct the violation of the federal right. Clearly, the least intrusive means in this case is that advocated by the parties themselves and determined by the parties and the court-appointed experts as being in the interest of both inmate and public safety. The record in this case, coupled with the agreed upon orders of the parties and the requirements of the Prison Litigation Reform Act, compel the Court to conclude that the proposed Jail Staffing Plan is not inconsistent with the Order Granting Injunctive Relief dated November 12, 1997, as amended by the Consent Order docketed November 26, 1999, and may, therefore, be implemented.

SO ORDERED.