

further than necessary to correct the violation of the Federal right, and that the prospective relief is narrowly drawn and the least intrusive means to correct the violation." 18 U.S.C. § 3626(b)(3) (emphasis added). The Court cannot, at this juncture, make such findings as are required to maintain the consent decree in this action. It is therefore **ORDERED** that the motion to terminate be and is hereby **GRANTED** and the Consent Decree approved by Order dated February 22, 1980, be and is accordingly **TERMINATED**.

DONE this 8th day of July, 1997.



SENIOR DISTRICT JUDGE

U.S. DISTRICT COURT
SO. DIST. AL.
MOBILE, AL 36602

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

1998 JAN 21 A 11: 17

FILED
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JERRY JACOBS, et al.,)	
)	
Plaintiffs,)	
)	
v.)	CIVIL ACTION NO. 78-309-H
)	78-261-H
ROBERT BRITTON, et al.,)	79-0157-H
)	
Defendants.)	

ORDER

On July 8, 1997, this Court granted (Doc. 83) the motion filed by the Attorney General for the State of Alabama and the Commissioner of the Alabama Department of Corrections (Doc. 82) to terminate the consent decree approved in this action on February 22, 1980. The motion to terminate was predicated on the Prison Litigation Reform Act (PLRA), specifically 18 U.S.C. § 3626(b)(2).¹

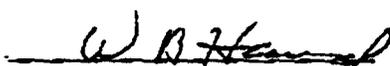
¹ Section 3626(b)(2) of the Prison Litigation Reform Act (PLRA) provides:

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.

Thereafter, a motion to reconsider (Doc. 84) was filed by the plaintiffs. Plaintiffs challenged the constitutionality of the PLRA. Plaintiffs specifically allege that the PLRA violates the separation-of-powers doctrine and plaintiffs' due process and equal protection rights. The Eleventh Circuit Court of Appeals has recently rejected the same challenges in a virtually identical case. *Dougan v. Singletary*, 129 F.3d 1424 (11th Cir. Dec. 1, 1997)(Rejected the separation-of-powers, due process and equal protection challenges and concluded that "§ 3626(b)(2) is constitutional.").

Consequently, the Court concludes that plaintiffs' challenges to the PLRA and this Court's Order of July 8, 1997, are without merit. The Court also remains of the opinion that it cannot, at this juncture, make such findings as are required to maintain the consent decree in this action. It is therefore **ORDERED** that the stay imposed by this Court on July 24, 1997 (Doc. 86), be and is hereby **LIFTED**; the Order entered by this Court on July 8, 1997 (Doc. 83), be and is hereby **REINSTATED** in that the motion to terminate is **GRANTED** and the Consent Decree approved by Order dated February 22, 1980, is accordingly **TERMINATED**.

DONE this 21st day of January, 1998.


SENIOR DISTRICT JUDGE