

234 F.3d 1273

Unpublished Disposition

NOTICE: THIS IS AN UNPUBLISHED OPINION.

(The Court's decision is referenced in a "Table of Decisions Without Reported Opinions" appearing in the Federal Reporter. Use FI CTA7 Rule 53 for rules regarding the citation of unpublished opinions.)

United States Court of Appeals, Seventh Circuit.

Richard A. FRENCH, et al, Plaintiffs-Appellees,

v.

Charles B. MILLER, et al., Defendants-Appellants,

and

UNITED STATES OF AMERICA, Intervenor-Appellant.

No. 97-3075. | Submitted Aug. 11, 2000. | Decided Aug. 17, 2000.

Appeal from the United States District Court for the Southern District of Indiana, Indianapolis Division. No. IP 75-677-C. S. Hugh Dillin, Judge.

Before Hon. JOEL M. FLAUM, Chief Judge, Hon. ILANA DIAMOND ROVNER, Hon. DIANE P. WOOD, Circuit Judges.

Opinion

ORDER

*1 As it originally reached this court, this case concerned the validity of the procedure established by the Prison Litigation Reform Act ("PLRA"), 18 U.S.C. § 3626(e)(2), (3), under which an automatic stay of an injunction imposing prospective relief on a prison system must be entered by a district court no later than 30 days after a motion is made by an affected party to terminate or modify such relief (with the 30-day period extendable by another 60 days if good cause is shown). In *French v. Duckworth*, 178 F.3d 437 (7th Cir.1999), we held that this procedure violated principles of separation of powers and thus could not be enforced. The Supreme Court has now reversed that decision, in *Miller v. French*, 120 S.Ct. 2246 (2000).

The Court agreed with our conclusion that the automatic stay provision did not permit the district courts to exercise their equitable powers to suspend the operation of the automatic stay, but it reversed our holding that the provision amounted to a congressional effort to exercise judicial powers in violation of constitutional principles. The case is now back before this court. As required by Circuit Rule 54, the parties have filed a statement addressing the action that ought to be taken by this court on remand; indeed, in this instance the prisoner class and the State of Indiana have filed a "joint Circuit Rule 54 report." That report sets forth the agreement of the principal parties that the automatic stay provided by 18 U.S.C. § 3626(e) is now effective. (The United States did not file a separate statement.) The joint Rule 54 statement further informs us that the parties have negotiated a private settlement agreement pursuant to 18 U.S.C. § 3626(c) of the Prison Litigation Reform Act, which, if accepted by the trial court after notice has been given to the class, will result in the termination of all prospective relief in the case.

Matters have been proceeding along these lines in the district court. Notice has already been furnished to the class of the prospective private settlement, and plaintiffs-appellees' counsel is scheduled to report back to the court with any class comments by late August 2000. If the court, having reviewed the settlement and any comments that are submitted, concludes that the settlement is fair and appropriate, that will be the end of this litigation. If it rejects the settlement, the parties agree that the case will move forward on the defendants-appellants' motion to terminate relief and the automatic stay of § 3626(e) will remain in effect.

We agree with counsel for the prisoner class and the State that the method of proceeding they have adopted is appropriate and consistent with the opinion of the Supreme Court. The case is therefore REMANDED to the district court for further proceedings as described.

French v. Miller, 234 F.3d 1273 (2000)

Parallel Citations

2000 WL 1180299 (C.A.7 (Ind.))