



PC-MD-004-001

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

DANIEL W. LIGHTFOOT, et al	:	
Plaintiffs	:	
vs.	:	Civil No. R-80-283
EDWIN GOODLANDER, et al	:	
Defendants	:	

STIPULATION

WHEREAS, plaintiffs have previously filed in these proceedings an action challenging overcrowded conditions at the Maryland Correctional Training Center ("MCTC") in Hagerstown, a correctional institution of the Division of Correction of the State of Maryland.

WHEREAS, this Court having previously certified the plaintiffs' action as a class action on behalf of the named plaintiffs and all others similarly situated, pursuant to Federal Rule of Civil Procedure 23.

WHEREAS, defendants have filed timely responses opposing the relief sought by plaintiffs in all respects.

WHEREAS, plaintiffs' counsel have undertaken extensive discovery, including depositions of defendants, their agents and employees, production of documents, and tours of the subject institutions; retained expert witnesses who have evaluated the claims of the plaintiffs in the areas of environmental health and safety, security, and classification; held extensive discussions with members of the plaintiffs' class; and participated in other proceedings before this Court in anticipation of trial.

WHEREAS, there has been no trial of the allegations and claims in the plaintiffs' complaint, and no findings of fact and conclusions of law or adjudication has been made by this Court with respect to any of the matters alleged in or arising out of the plaintiffs' said complaint.

WHEREAS, counsel for the parties have conducted lengthy negotiations regarding an interim resolution of the issues raised in the complaint previously filed herein by the plaintiffs.

WHEREAS, plaintiffs and defendants desire to resolve, on an interim basis, the claims and allegations made by plaintiffs without the time, expense, and uncertainty of contested litigation.

WHEREAS, plaintiffs and defendants through their respective counsel, therefore have voluntarily agreed to the provisions of this Stipulation which shall become effective upon approval by the Court.

WHEREAS, plaintiffs and defendants agree that, as recognized by the United States Court of Appeals for the Fourth Circuit in Nelson v. Collins, 659 F.2d 420 (1981), that any solution to the problem of overcrowding in Maryland's prisons must be formulated on a comprehensive, Division-wide basis, rather than on an institution-by-institution basis.

WHEREAS, the plaintiffs and defendants in the pending consolidated actions styled Johnson et al v. Galley et al, Civil No. H-77-113 and Washington et al v. Tinney et al, Civil No. H-78-1730, are discussing an interim Stipulation resolving the issues presently pending before this Court in those cases as they pertain to the Maryland House

of Correction and the Maryland Correctional Institution-Hagerstown.

WHEREAS, the parties recognize that immediate reduction of the inmate population at MCTC and elimination of double celling is not feasible in view of population problems which are Division wide and that any interim agreement must focus upon other relief.

WHEREAS, idleness on the part of large numbers of inmates is contrary to proper institutional management and sound correctional practice and presents potential threats to the well being and rehabilitation of inmates.

WHEREAS, the population at MCTC includes not only those inmates confined to Housing Units Nos. 1 through 6 at the main compound, but also includes inmates located at an emergency housing unit accommodating 128 inmates, a work release unit accommodating 150 inmates and three additional housing units accommodating a total of 450 inmates.

NOW, THEREFORE, the parties by their respective counsel, do hereby stipulate and agree as follows:

1. That this interim Stipulation is subject to the provisions of Federal Rule of Civil Procedure 23, the Court having previously certified this case as a class action. Upon signature by counsel and filing with this Court, notification of the terms and conditions of this Stipulation, together with a copy hereof, shall be posted in conspicuous places at MCTC to be agreed upon by counsel. The plaintiffs and members of the class they represent shall have 30 (thirty) days from the date of such notification and posting to file, in writing, with this court, any objections they may have to the approval of this Interim Stipulation by this Court.

2. Defendants shall take action to relieve inmate idleness at the institution and shall adopt measures designed to provide meaningful educational and work activities for all inmates at MCTC, including all inmates housed at the additional units referred to herein, wishing to avail themselves thereof, to the maximum extent possible consistent with sound institutional management and correctional practice. Defendants' duty shall include the following measures:

a. Defendants shall, within thirty days from the date of this stipulation, cause the Maryland Department of Education to survey both vocational and academic programs available at the MCTC and to prepare a report as to the adequacy of such programs and to make recommendations to the defendants with a view toward expansion or other improvement of the programs available. Within thirty days after the completion of the report, defendants shall submit to the court a plan for the expansion and improvement of such programs designed to provide for the maximum expansion of such programs consistent with proper management of the institution and sound correctional policy. Defendants shall thereafter take all steps necessary to insure implementation of the provisions of such plan, including requests for funding of such programs, cooperation and coordination with other departments and agencies of the State of Maryland and planning within the institution to facilitate early and continuing operation of such programs.

b. Defendants shall investigate the enlargement of the existing vocational shops at the institution, including both larger class size and expansion of physical facilities.

c. Defendants shall investigate the institution of production shops or industries at MCTC.

d. Defendants shall continue and expand their efforts to place inmates in work outside the institution and to expand work details inside the institution.

It is agreed that these specific provisions are not intended to limit the areas of exploration for increasing work and educational opportunities at MCTC.

3. Defendants will locate (and have located) within the perimeter of MCTC three additional housing units, each having the capacity of 150 inmates per unit. These housing units will be used to accommodate inmates committed to the custody of the Division of Correction after appropriate classification. Plaintiffs and defendants stipulate and agree that as the State of Maryland completes new permanent facilities for the housing of inmates, defendants shall file with the Court a plan, not less than 30 (thirty) days prior to the opening of said new facilities, detailing the utilization of said new facilities and will serve a copy of each such upon counsel for plaintiffs herein.

4. In the interim, defendants shall be allowed to double-cell inmates in MCTC housing areas 1, 2, 3, 4 5, and 6. The parties agree that the interim permission to double-cell said housing units is not an admission by plaintiffs that such double-celling is in all respects constitutional and appropriate, but, rather, represents the recognition of the parties that there presently does not exist sufficient capacity within the Division of Correction to eliminate double-celling in the facilities which are under court order to reduce inmate population.

5. The interim period referred to herein shall not extend further than the completion of the first new permanent facility referred to in paragraph 4 hereof. Defendants shall file with the court in this case and provide counsel for plaintiffs a copy of the plan for utilization of the new facilities. If such plan does not provide for the reduction of population at MCTC, then defendants shall either file a plan providing for relief of overcrowding at MCTC or shall indicate their intention to institute double celling of inmates on a permanent basis at MCTC. The parties do further agree that should defendants desire to "double-cell" inmates at MCTC on a permanent basis, the issues and allegations contained in plaintiffs' complaint may ultimately have to be tried on their merits.

6. The numbers of double cells in the institution, including the additional population areas referred to herein, shall not exceed 630. Inmates on segregation shall not be double celled.

7. Defendants have previously requested funds from the Maryland General Assembly to make significant physical plant and other

other improvements at MCTC. Defendants shall request approval of, and funding for, additional improvements at MCTC from the 1983 Session of the Maryland General Assembly. Defendants agree that as soon as the final plans for such improvements have been formulated, and in any event not later than February 1, 1983, they shall submit a detailed report itemizing all improvements presently under way and/or already funded, as well as all improvements which have been requested, to counsel for plaintiffs and the Court. Defendants shall thereafter likewise notify the Court and counsel of any final action taken by the General Assembly of Maryland pertaining to such improvements and of the progress of the completion of such improvements.

8. Defendants shall submit to the Court, with copies to plaintiffs' counsel, monthly reports concerning progress towards, and completion of, the activities as set forth in this Stipulation, on the 15th of each month. These monthly reports shall also include population figures for the institution.

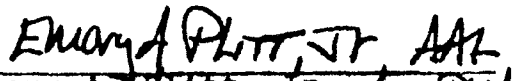
9. The Court shall retain jurisdiction of the above-captioned case and shall retain discretionary authority, subject to all applicable provisions of law where not otherwise modified by this Stipulation, to modify, either prospectively or retrospectively, any provisions hereof. Any party may at any time apply to this Court for modification of any and all provisions of this Stipulation, upon appropriate notice. Any party may seek enforcement of the provisions of this agreement by appropriate motion. This Stipulation shall not

constitute any admission as to any fact, allegation, or conclusion of law in these proceedings.

Stipulated and Agreed to, on behalf of the Defendants this 14th day of December, 1982.

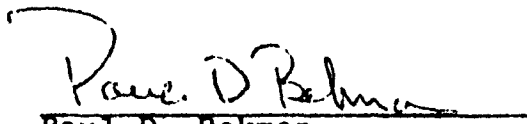
STEPHEN H. SACHS,
Attorney General of Maryland


Phillip M. Andrews,
Assistant Attorney General


Emory A. Platt, Jr.
Assistant Attorney General
Attorneys for Defendants

Stipulated and Agreed to, on behalf of the Plaintiff class, this 14th day of December, 1982.


W. Michel Pierson


Paul D. Bekman
Attorneys for Plaintiffs

APPROVAL BY COURT

The Court, having read and considered the foregoing Stipulation, does, this day of , 198_, hereby approve the terms and conditions hereof.

Norman P. Ramsey,
United States District Judge

J. JOSEPH CURRAN, JR.
Attorney General

NORMAN E. PARKER, JR.
CARMEN M. SHEPARD
Deputy Attorneys General



STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

TELECOPIER NO.

WRITER'S DIRECT DIAL NO.

(410) 576-6955

February 12, 1997

(410) 576-7055

The Honorable William M. Nickerson
United States District Court
for the District of Maryland
101 W. Lombard Street
Baltimore, Maryland 21201

Re: *Johnson v. Robinson*
Civil Nos. WMN-77-113 & WMN-78-1730
(Consolidated with Civil Action No. WMN-77-116)

Johnson v. Robinson
Civil Action No. WMN-77-116
(Consolidated with Civil Nos. WMN-77-113 & WMN-78-1730)

Dear Judge Nickerson:

Enclosed for your consideration is the recent Memorandum and Order of Judge Legg, terminating, under the Prison Litigation Reform Act of 1995 ("PLRA"), a long-standing consent decree governing conditions at the Maryland Correctional Training Center. The defendants submit that this supplemental authority sets forth the correct approach and analysis to a motion to terminate prospective relief under the PLRA, and indicates that immediate termination of the decrees in the above-referenced cases is the appropriate course.

Thank you for your consideration and attention to these matters.

Very truly yours,

A handwritten signature in cursive script, appearing to read "J B Howard".

John B. Howard, Jr.
Assistant Attorney General

KLL:jbh\johnson\judge6.ltr

Enclosure

cc: Margaret Winter
Ward B. Coe, III
Joseph Tetrault

(Id.) The record reveals no complaints or motions filed since 1983. (Id.)

Defendants now contend that, in light of new statutory and case law, they are entitled to immediate termination of the Stipulation. (Mot. Term.)

II. DISCUSSION

On April 16, 1996, Congress passed the Prison Litigation Reform Act of 1995 ("PLRA"), "to provid[e] reasonable limits on the remedies available" in prison conditions litigation. Pub. L. No. 104-134, 110 Stat. 1321, §§ 801-810 (amending 18 U.S.C. § 3626); Plyler v. Moore, No. 96-6884, 1996 WL 659352 (4th Cir. Nov. 14, 1996) (citing H.R. Rep. No. 21, 104th Cong. 1st Sess. 7 (1995)).

On November 14, 1996, the Fourth Circuit upheld the PLRA against numerous statutory and constitutional challenges. Plyler, 1996 WL 659352. Rejecting plaintiffs' separation-of-powers, due process, and equal protection arguments, the Fourth Circuit held that the PLRA "provides an avenue for states to end their obligations under consent decrees providing for greater prospective relief than that required by federal law." Plyler, 1996 WL 659352, at *2.¹

¹ Plaintiffs concede that Plyler is dispositive. (Opp. Mot. Term. at 2). They contend, however, that because a "Petition for Rehearing and Suggestion for Rehearing En Banc" has

Specifically, the PLRA entitles states to "immediate termination" of decrees that lack certain necessary criteria:

(b) (2) IMMEDIATE TERMINATION OF PROSPECTIVE RELIEF. -- In any civil action with respect to prison conditions, a defendant or intervenor 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.

18 U.S.C. § 3626(b) (2) (emphasis added). It is undisputed that, in the instant case, the above standard was not met. (Mem. Supp. Mot. Term. at 3; Mem. Opp. Mot. Term. at 2). Judge Ramsey did not make a finding that the Stipulation was "narrowly drawn" and the "least intrusive means necessary." (Id.) Accordingly, § 3626(b) (2) entitles defendants to immediate termination of the Stipulation.

Plaintiffs oppose termination, however, citing § 3626(b) (3) as a limitation on § 3626(b) (2):

(b) (3) LIMITATION. -- Prospective relief shall not terminate if the court makes written findings based on the record that prospective relief remains necessary to correct a current or ongoing violation of the Federal right, extends no 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.

been filed in Plyler, this Court should postpone its decision until the Fourth Circuit has resolved the issue. (Id. at 2-3). On January 10, 1997, the Fourth Circuit denied the petition for rehearing.

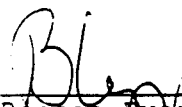
18 U.S.C. § 3626(b)(3) (emphasis added). Plaintiffs contend that this Court should hold further proceedings to determine whether "current or ongoing violation[s]" exist at MCTC. (Mot. Opp. Mot. Term. at 3-4). This Court finds further proceedings unnecessary. Thirteen years have passed since the Stipulation was approved, and defendants have filed 160 reports with this Court. (Mem. Supp. Mot. Term. at 2). Not once has a complaint or motion been filed. (Id.) Because the record is devoid of evidence of a "current or ongoing violation" of a federal right, this Court finds that § 3626(b)(3) is inapplicable.

Accordingly, in reliance on the PLRA and recent Fourth Circuit case law, this Court finds that defendants are entitled to immediate termination of the Stipulation.

IV. CONCLUSION

For the reasons stated above, this Court shall, by separate Order, GRANT defendants' Motion to Terminate the Stipulation.

Dated this 22nd day of January 1997.



Benson Everett Legg
United States District Judge


IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

DANIEL W. LIGHTFOOT, et al. :
 :
v. : CIVIL NO. L-90-293
 :
EDWIN GOODLANDER, et al. :

ORDER

For the reasons stated in a Memorandum of even date, this court hereby GRANTS defendants' Motion for Termination of the Stipulation.

IT IS SO ORDERED this 22ND day of January 1997.



Benson Everett Legg
United States District Judge