

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LINDA NUNN, et al,

Plaintiffs,

Case

No. 96-CV-71416-DT

v Honorable

John Corbett O'Meara

MICHIGAN DEPARTMENT OF
CORRECTIONS, et al,

Defendants.

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DEFENDANTS' MOTION TO REINSTATE AND BRIEF IN SUPPORT

Defendants, by their attorneys, move for reinstatement of Defendants' Motion for Full Unconditional Dismissal Pursuant to the February 19, 2003 Stipulation Between the Parties filed on October 28, 2004, and a ruling by the Court, and state as follows:

1. On October 28, 2004, Defendants filed their Motion for Full Unconditional Dismissal Pursuant to the February 19, 2003 Stipulation of the Parties. (Dkt. #998).
2. On November 19, 2004, Plaintiffs filed their Response and Brief in Opposition to Defendants' Motion for Full Unconditional Dismissal. (Dkt. #1002).
3. On November 29, 2004, Defendants filed their Reply to Plaintiffs' Response and Brief in Opposition to Defendants' Motion for Full Unconditional Dismissal. (Dkt. #1003).

4. On December 3, 2004, the Sixth Circuit issued its Opinion in *Everson v Michigan Dept of Corrections*, 391 F 3d 737 (CA 6 2004), *rehrg denied* 2005 US App LEXIS 4653 (CA 6 Mar 18, 2005), *cert denied* 126 S Ct 364 (2005), reversing the District Court's Opinion and Order (*Everson v Michigan Dept of Corrections*, 222 F Supp 2d 864 (ED Mich 2002)).

5. On December 10, 2004, the Court held a hearing on Defendants' Motion and the matter was taken under advisement.

6. On September 29, 2005, at the request of the Court's Case Manager, Denise Goodwin, Defendants withdrew without prejudice, their Motion for Full and Unconditional Dismissal. (Dkt. #1004).

WHEREFORE, for the aforementioned reasons and the appellate court's resolution of *Everson v Michigan Dept of Corrections*, Defendants request that the Court reinstate their Motion for Full Unconditional Dismissal Pursuant to the February 19, 2003 Stipulation Between the Parties, and provide a ruling on Defendants' Motion.

Respectfully submitted,

Michael A. Cox
Attorney General

s/Leo H. Friedman
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Dated: December 13, 2006

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CERTIFICATE OF SERVICE

I hereby certify that on December 13, 2006, my secretary electronically filed Defendants' Motion to Reinstate and Brief in Support with the Clerk of the Court and Deborah A. LaBelle, attorney for Plaintiffs, using the ECF System.

s/Leo H. Friedman
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