

**FILED**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**MAR 31 2005**

**ARLEN B. COYLE, CLERK**  
By *M. S. Kelly*  
PLAINTIFFS *Deputy*

NAZARETH GATES, ET AL

V.

CIVIL NO. 4:71CV6-JAD

HALEY BARBOUR, ET AL

DEFENDANTS

**CONSOLIDATED WITH:**

DAVID DARRELL MOORE, ET AL

PLAINTIFFS

V.

CIVIL NO. 4:90CV125-JAD

KIRK FORDICE, ET AL

DEFENDANTS

**ORDER DISMISSING MOORE CASE WITH PREJUDICE**

Defendants have filed a motion to dismiss [Doc. 161] pursuant to consent decree, or in the alternative, for termination of relief under 18 U.S.C. § 3626(b). The court has conducted an evidentiary hearing, considered the post-hearing briefs and is prepared to rule.

The court finds that pursuant to the June 28, 1999, decree, as well as the Prison Litigation Reform Act the prospective relief ordered in this case should be terminated and this case dismissed with prejudice.

The court finds that the defendants have implemented the court's ordered relief and have remained in substantial compliance. Any deviations from the ordered relief have been isolated and minimal. The defendants have integrated the HIV-positive inmates into the general prison population except for housing and they are given the same rights and privileges afforded to other

inmates with the same custody status. Moreover, the drug therapy offered HIV-positive inmates is in accordance with NIH guidelines and meets the standards required by the court's July 1999 preliminary injunction. The 1999 injunction is no longer required to correct an ongoing violation of a federal right. See, Castillo v. Cameron County, Texas, 238 F.3d 339 (5<sup>th</sup> Cir. 2001).

The court appreciates the commitment of both sides in reaching the conclusion of this litigation. Great strides were made in the treatment of HIV-positive inmates, not only through the perseverance of plaintiffs' counsel, but also through the recognition of the problem and desire to correct it shown by the defendants.

Accordingly, it is Ordered that the injunctive relief previously ordered in the Moore case is terminated and that case is dismissed with prejudice.

This 31<sup>st</sup> day of March, 2005.

  
UNITED STATES MAGISTRATE JUDGE