

930 F.2d 28

Unpublished Disposition

NOTICE: THIS IS AN UNPUBLISHED OPINION.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 Use FI CTA9 Rule 36-3 for rules regarding the citation of unpublished opinions.)

United States Court of Appeals, Ninth Circuit.

Daniel Uvon MARRS, Plaintiff-Appellant,

v.

Donald B. COX; Wallace Hammack; Robert Ingram, et al. Defendants-Appellees.

Nos. 89-35710, 89-35734 and 90-35194. | Argued and Submitted Sept. 12, 1990. | Decided April 12, 1991.

Appeal from the United States District Court for the District of Oregon; No. CV-86-489-RE, James A. Redden, District Judge, Presiding.

D.Or.

REVERSED.

Before CANBY AND TROTT, CIRCUIT JUDGES and LEGGE*, DISTRICT JUDGE.

Opinion

MEMORANDUM**

*1 Plaintiff Daniel Marrs, representing a class of Oregon state prisoners, appeals the district court's refusal to enforce a consent decree. The appeal presents three issues: (1) whether Marrs' demand that the Corrections Sergeant submit to psychiatric evaluation was timely; (2) whether the request was made in bad faith; and (3) whether the district court lacked the authority to order a psychiatric evaluation.

1. Timeliness of the Demand

The district court misconstrued the Stipulated Final Judgment when it held that Marrs' demand for a psychiatric examination of the corrections sergeant was untimely. If the language of a contract is clear and free of ambiguities, a court's interpretation of the contract is a matter of law. *Edwards v. Times Mirror Co.*, 102 Or.App. 440, 445, 795 P.2d 564, 567 (Or.Ct.App.1990).¹ Here, the agreement unambiguously provides that the period of mediation will continue for twelve weeks after the first mediation session.²

The defendants assert that the mediation period ended when the mediator terminated the sessions. To support this position the defendants point to language in the decree which states: "The frequency of such mediation meetings shall be determined by the mediator." This sentence is independent of the language specifying the period of mediation. Although the agreement enabled the mediator to determine the frequency of the mediation sessions, the mediator could not limit the period of mediation. Early termination of the mediation sessions could not restrict the period during which plaintiffs could demand psychiatric evaluation. At oral argument the defendants conceded that if the consent decree is construed as specifying a twelve week mediation period, the plaintiff's demand for psychiatric evaluation is timely. Accordingly, we reverse the district court's finding that the demand for psychiatric evaluation was untimely.

2. Good Faith of the Demand³

The district court erred in finding that Marrs' demand for psychiatric evaluation was not made in good faith. The record fails to support such a finding. In reaching its conclusion, the district court relied solely on a letter written by Marrs' attorney on March 31, 1989. In the relevant portions, the letter states:

Vickie's statement that [the mediation session] was mutually terminated is simply not a correct interpretation by her of the officers position on this matter. As noted in my March 6, letter, the officers feel it is appropriate to test out some of the skills that were offered by Vickie with Kathy over the next month and then decide whether they want another session. I am offering this as a compromise to getting into a battle over whether the sessions have appropriately ended according to the terms of and intent of the decree.

Assuming that a court were to find that the mediation sessions have ended by now (a position we reject) I am hereby informing you under the Sealed Portion of Judgment filed October 12, 1988 as lead class counsel that we "demand, the Corrections Sergeant shall undergo psychiatric examination by an agreed psychiatrist...."

*2 In an exchange of letters, counsel for both parties disputed two issues: (1) whether the mediation sessions had appropriately ended, and (2) whether the consent decree specified the period of mediation. Determination of the latter issue would also determine when plaintiffs were required to assert their demand for psychiatric evaluation.

The defendants argue that plaintiffs' letter links a "compromise" by the County on the mediation issue with a forbearance on the plaintiffs' part from exercising a demand for psychiatric evaluation. The defendants assert that the letter demonstrates bad faith because it is improper to use the psychiatric evaluation demand as leverage for extending the sessions for mediation. The district court adopted the defendants' interpretation of the letter.

We conclude that the letter fails to demonstrate any basis for the district court to find an absence of good faith. The letter from plaintiffs' counsel addresses the two issues in dispute in separate paragraphs. The "compromise" that defendants refer to is linked with the continuation of mediation sessions, not with the psychiatric evaluation as defendants allege. The plaintiffs offer to forego legal action to determine whether mediation is appropriately over if the defendants would agree to allow the sheriff's officers one month to decide if further mediation is desirable.

In the second paragraph of the letter, plaintiffs' attorney makes a demand for a psychiatric examination. This demand is related to the second dispute between the parties-the time period in which plaintiffs must exercise their right to demand an evaluation. By demanding evaluation in the March 31 letter, plaintiffs' counsel hoped to preserve that right in the event the trial court adopted the defendants' interpretation. The conditional language of the demand supports our reading of the letter. In addition to the plaintiffs' letter, the trial court was presented with plaintiffs' affidavits. These affidavits clearly demonstrate that plaintiffs' demand was submitted in good faith. Although plaintiffs' affidavits were not submitted with their motion for contempt, the district court had the affidavits before it when ruling on a contemporaneous motion that was dealt with in the same order. The later motion emphasized that the two motions for contempt were interrelated.

3. Authority of District Court to Order Psychiatric Evaluation

After finding that the plaintiffs had failed to exercise their right to demand a psychiatric evaluation under the consent decree, the district court concluded that it did not have the power to order the corrections sergeant to undergo psychiatric evaluation independent of the parties' agreement.

A court has inherent power summarily to enforce a settlement agreement with respect to an action pending before it; the merits of the antecedent controversy become inconsequential. *TNT Marketing, Inc. v. Agresti*, 796 F.2d 276, 278 (9th Cir.1986); *Decanay v. Mendoza*, 573 F.2d 1075, 1078 (9th Cir.1978). The parties' agreement provided for psychiatric evaluation upon plaintiffs' timely demand. We have concluded that plaintiffs' invocation of this term was timely and in good faith. Consequently, we conclude that the district court had the authority to order the corrections sergeant to submit to the evaluation.

*3 We reverse and remand to the district court for further proceedings not inconsistent with this memorandum. Plaintiffs are entitled to attorneys' fees as prevailing parties on this appeal, pursuant to 42 U.S.C. § 1988. Application may be made as provided by Circuit Rule 39-1.

REVERSED.

Parallel Citations

1991 WL 54873 (C.A.9 (Or.))

Footnotes

* The Honorable Charles A. Legge, United States District Judge for the Northern District of California, sitting by designation.

** This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Cir.R. 36-3.

¹ We apply state law in interpreting consent decrees. *Washington v. Penwell*, 700 F.2d 570, 573 (9th Cir.1983).

² The decree states that periodic mediation sessions will take place “[b]eginning within 30 days of entry of their Stipulated Final Judgment, unless agreed otherwise by counsel for the parties, and for 12 weeks thereafter ... The frequency of such mediation meetings shall be determined by the mediator.”

³ At oral argument, counsel for the plaintiffs conceded that the decree required that the demand for psychiatric evaluation be made in good faith. Therefore, we do not address plaintiffs’ former argument to the contrary.