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United States District Court, E.D. Pennsylvania.

Otis PETERKIN, et al.,
v.
Glenn JEFFES, et al.

Civ. A. No. 83-0304. | July 19, 1991.

Attorneys and Law Firms

Peterkin, in pro. per.

Donald S. Bronstein, Nicholas N. Price, James D. Crawford, Philadelphia Pa., Stefan Presser, American Civil Liberties Union, Philadelphia, Pa., Salvador Morales, a/k/a Simon Pirela Am, Graterford, Pa., for plaintiffs.

Maria Parisi Vickers, John O.J. Shellenberger, Philadelphia, Pa., for Ronald Marks.

Opinion

MEMORANDUM

McGLYNN, District Judge.

*1 Before this court is a motion to enforce the terms of a settlement agreement between the plaintiff and the Department of Corrections (“Department”). The plaintiff is a member of the class of death-sentenced inmates confined to administrative custody at the State Correctional Institutions at Graterford, Huntingdon, and Pittsburgh. In his motion, plaintiff alleges that the Department, by imposing certain conditions on prisoner’s access to law libraries, is failing to comply with the provisions of the settlement agreement. Because the court finds that the Department’s policy does not violate the agreement, the plaintiff’s motion will be denied.

I. BACKGROUND

The above-captioned suit arose over eight years ago, stemming from the Department’s decision to confine death-sentenced inmates to administrative custody in Restrictive Housing Units. The inmates brought a class action suit claiming, *inter alia*, that the resultant loss of direct access to legal materials violated their constitutional right of meaningful access to the courts. After the trial court entered judgment in favor of the

defendants, the inmate-class appealed to the United States Court of Appeals for the Third Circuit. The Court of Appeals remanded the case for further factual findings with respect to whether the death row inmates had counsel for all relevant proceedings, including habeas corpus petitions, post conviction relief petitions, and civil rights actions. *Peterkin v. Jeffes*, 855 F.2d 1021 (3d Cir.1988).

Following the remand, the parties entered into negotiations and reached a settlement agreement whereby the Department agreed to set up “mini law libraries” in the three housing units where the death sentenced inmates were held. The Department also issued a directive setting forth conditions and rules for the use of the libraries. The parties then presented the settlement agreement to the court in a “Joint Motion for Class Settlement,” and the class was notified of its contents. The plaintiffs and the defendants then requested dismissal of the case. Pursuant to Fed.R.Civ.P. 23(e),¹ the court approved the settlement agreement and dismissed the case by order dated November 14, 1989.

On May 3, 1990, the State Correctional Institution at Graterford issued a memo prohibiting all inmates in disciplinary custody status (DC) from using the law library with other prisoners. One of the class of inmates, Roger Buehl, has now filed a “Motion for Enforcement of Settlement,” alleging that the defendants are failing to comply with the court’s order of November 14, 1989. Buehl contends that the Department’s new memo contravenes the provision of the settlement directive stating “that two (2) capital case inmates may work together in the mini-law library provided there is no articulable security objection.” Buehl contends that the blanket restriction applying to all DC status inmates is not justified by a specific “articulable security objection” as required by the agreement. He therefore requests the court to order the Department to permit DC status inmates to use the library together with other inmates unless a particular inmate or the pairing of two particular inmates creates a serious security risk. Alternatively, Buehl requests a hearing to determine the exact meaning of the term “articulable security objection.”

*2 For its part, the Department challenges the authority of the court to enforce the settlement agreement as binding upon the parties. It argues that none of the documents relevant to the settlement agreement bound them to maintain the provisions of the directive. The Department contends that because the directive was not incorporated into the court’s order dismissing the case, the order did not, in the manner of a consent decree, require the Department to maintain indefinitely the provisions of the directive. Furthermore, the defendant argues that the court, by failing to state otherwise, dismissed the case

without prejudice. Therefore, the settlement agreement was not a final adjudication on the merits and created no enforceable agreements upon which the plaintiffs were entitled to rely.

II. DISCUSSION

The court first will consider the defendant's arguments with regard to the binding nature of the settlement agreement. The Department's contentions are not supported by a review of the court's actions in approving the agreement. The Third Circuit has held that a stipulation of settlement which is incorporated into an order of the court and imposes future obligations on a defendant is, effectively, an enforceable consent decree that is binding upon the parties. *Halderman v. Pennhurst State School and Hosp.*, 901 F.2d 311, 317 (3d Cir.1990). In the instant case, the parties presented to the court a "Joint Motion for Class Settlement" announcing the adoption of the Department's administrative directive, which described the creation of the "mini law libraries" and the conditions governing prisoner access. The court incorporated that directive into its order notifying the inmate-class of the settlement agreement. The court then approved the settlement agreement based upon the terms of the directive as negotiated by the parties. *Peterkin v. Jeffes*, No. 83-0304, slip op. at 2-3 (E.D.Pa. Nov. 14, 1989). Because the directive and its provisions were included in the court's order, the obligations imposed by the directive are binding and the court may order the defendant to comply with its terms.

The alternative argument that the dismissal was without prejudice and therefore not final and binding is simply not supported by the record. The order of November 14, 1989, dismissed the case pursuant to Local Rule 23(b).² That rule provides that the order which is entered dismissing the action is entered dismissing the case *with prejudice*. The plaintiff's claims were thus fully litigated and permanently resolved by the approval of the settlement agreement and the dismissal of the case. Furthermore, because district courts retain jurisdiction to enforce the terms of an agreement where they have approved the settlement and dismissed the case with prejudice, *Washington Hosp. v. White*, 889 F.2d 1294, 1299 (3d Cir.1989); *Lasky v. Continental Products Corp.*, 804 F.2d 250, 254 (3d Cir.1986), the plaintiff in this case may properly request an order from this court to enforce the provisions of the settlement agreement.

*3 In yet another argument, the defendant contends that the Third Circuit has already rejected Buehl's argument that the provisions of the directive are enforceable. The defendant states that in November, 1990, one of the class members, Salvadore Morales, filed a "Motion for Emergency Relief from Judgment," under Fed.R.Civ.P. Rule 60(b), claiming that the Department had improperly

forbidden him to exchange legal papers with other inmates while he was in disciplinary custody. The court denied his motion based upon the fact that he was represented by counsel in all his legal proceedings. Morales appealed that decision, arguing in the alternative that the Rule 60(b) motion could be construed as a motion to enforce the settlement agreement. The Court of Appeals issued a Judgment Order affirming the district court's denial of Morales' motion.

The Department argues that the Court of Appeals, by reason of its Judgment Order, has resolved against all inmate-class members, including Buehl, the question of the binding nature of the directive, and that the district court is now precluded from considering that issue in a subsequent case. Unfortunately for the Department's argument, a summary dismissal represents the Court of Appeal's affirmation of the district court's judgment only with respect to the precise issues necessarily decided by the district court. *Lecates v. Justice of the Peace Court No. 4*, 637 F.2d 898, 904 (3d Cir.1980) (citations omitted). In Morales' case, the Judgment Order of the Court of Appeals can be construed as referring only to the single issue decided by the district court, *viz.*, the denial of the Rule 60(b) motion based on petitioner's representation by counsel. The court is not precluded from considering the merits of contentions that are similar to or related to those raised in a summarily affirmed case. *Id.*

Having determined that the provisions of the settlement agreement are binding upon the Department, the court now considers whether the library restriction imposed on DC status inmates falls within the scope of an "articulable security objection" as stated in the directive. First, the court recognizes that "a prison's internal security is peculiarly a matter [for] the discretion of prison administrators." *Whitley v. Albers*, 475 U.S. 321 (1986) (quoting *Rhodes v. Chapman*, 452 U.S. 337, 349, n. 14 (1985)). Prison officials "should be accorded wide-ranging deference in the adoption and execution of policies and practices that in their judgment are needed to preserve internal order and discipline and to maintain institutional security." *Whitley*, 475 U.S. at 322 (citing *Bell v. Wolfish*, 441 U.S. 520, 547 (1979)).

The court's deference extends to the sphere of prison regulations regarding prisoner access to counsel and legal materials. When justified by legitimate security concerns, policies that restrict an inmate's direct access to law libraries have been upheld by the courts as non-violative of the prisoners constitutional right of meaningful access to the courts. *Campbell v. Miller*, 787 F.2d 217, 227 (7th Cir.1986), *cert. den.*, 479 U.S. 1019 (1986) (restrictions on direct access resulting in eight day delay were justifiable by security considerations at highest level maximum security prison). *Harrington v. Holshouser*, 741 F.2d 66, 69 (4th Cir.1984) (fifteen-day delay in

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gaining access to law library for inmates in disciplinary segregation was permissible).

*4 In the instant case, prisoners confined to disciplinary custody status are forbidden to work in the mini-law library with other prisoners. The court finds that the restriction is based on legitimate security consideration which falls well within the ambit of an “articulable security objection” as that term is used in the agreement. The Department’s regulations describe disciplinary custody as “a housing status to which inmates found guilty of Class I misconducts may be committed.... for the purpose of supervision and control of serious disciplinary problems.”³ Class I misconducts include thirty-five forms of transgressions ranging from felonies and misdemeanors to refusal to obey an oral or written order.⁴ The fact that a death row inmate has failed to abide by these regulations justifies his removal from contact with other prisoners. The prison administration therefore has an “articulable security objection” in prohibiting these inmates from associating with the general prison population.⁵

The plaintiff argues, however, that the Department’s policy is an unreasonable exercise of security never intended to be permitted by the settlement agreement. In Buehl’s view, an “articulable security objection” requires particularized assessments on the basis of each pair of inmates who apply to use the library together. He points out that many DC inmates are confined to that status due to non-threatening, non-violent behavior which has no relationship to potential misconduct in the law library, and that the blanket prohibition covers all DC status inmates automatically no matter how serious their breach of prison rules.

The court is not persuaded by the plaintiff’s reading of the settlement agreement. When determining the meaning of a settlement agreement, the court’s first resort is to the four corners of the document: the instrument must be construed as it is written. *United States v. Armour & Co.*, 402 U.S. 673, 682 (1971). If no reasonable alternative interpretation of the wording is suggested, the writing will be enforced as the court reads it on its face. *Sherman v. Medicine Shoppe Int’l Inc.*, 581 F.Supp. 445 (E.D.Pa.1984). There is nothing in the record to support the contention that the parties intended the Department to provide an inmate-specific basis for refusing library

access to a particular pair of prisoners who wish to work together.

Finally, Buehl contends that the Department’s policy violates the meaning and purpose of the entire settlement agreement. He argues that, due to the lack of paralegal assistance, the inmate’s ability to work together was an important factor in the settlement negotiations. This was certainly an attractive feature of the agreement and one which influenced the court’s approval of the settlement. *Peterkin*, slip op. at 2–3. However, the court must construe the agreement as a whole. Giving due regard to prison security considerations, the court concludes that the Department has provided an “articulable security objection” in restricting DC status inmates from library privileges with other prisoners.

III CONCLUSION

*5 The plaintiff has alleged the failure of the Department of Corrections to comply with the terms of the settlement agreement of November 14, 1989, specifically the right of two inmates to use the law library together unless there is an “articulable security objection.” However, the confinement of a death-row inmate to disciplinary custody based on his breach of serious prison regulations constitutes an “articulable security objection” as contemplated in the terms of the agreement. The Department is not violating the agreement when it forbids inmates so confined to use the law library in company with other prisoners. The plaintiff’s motion to enforce settlement is therefore denied.

ORDER

AND NOW, this 19th day of July, 1991, upon consideration of the plaintiff’s motion to enforce settlement, and the defendant’s response thereto, and for the reasons stated in the accompanying memorandum, it is hereby ORDERED that the plaintiff’s motion is DENIED.

Footnotes

- 1 Rule 23(e) states:
Dismissal or compromise: A class action shall not be dismissed or compromised without the approval of the court, and notice of proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs. Fed.R.Civ.P. 23(e).
- 2 Local Rule 23(b) for the Eastern District of Pennsylvania provides:
Rule 23. Dismissal and Abandonment of Actions.
(b) Whenever in any civil action counsel shall notify the Clerk or the judge to whom the action is assigned that the issues between the parties have been settled, the Clerk shall, upon order of the judge to whom the case is assigned, enter an order

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dismissing the action with prejudice, without costs, pursuant to the agreement of counsel. Any such order of dismissal may be vacated, modified, or stricken from the record, for cause shown, upon the application of any party served within ninety (90) days of the entry of such order of dismissal.

3 Commonwealth of Pennsylvania Department of Corrections, Administrative Manual Volume VI OM-082.07, Defendant's Brief, Exhibit 3, p. 1.

4 Commonwealth of Pennsylvania Department of Corrections, Administrative Directive 801, Defendant's brief, Exhibit 4, p. 1.

5 The Court does not find that the Department's interpretation of the phrase at issue infringes upon the prisoners' constitutional right of meaningful access to the courts. In approving the settlement, the court stated that the law library concept met the Supreme Court's "main concern" that those inmates who are not provided with counsel for all their legal proceedings should have the ability to prepare a petition or complaint. *Peterkin*, slip op. at 2. (citing *Bounds v. Smith*, U.S. 817, 823, n. 17 (1977)). The prisoners' rights are not total and unlimited, however, but are subject to valid security considerations as recognized in the present case. Nevertheless, the prisoners in disciplinary custody status retain the ability to draft petitions and complaints. While in DC status they may continue to use the library alone and they have access to requested materials through the institution's law librarian. They are provided with all items necessary for the preparation of legal documents and correspondence. Finally, their segregation in this status lasts no longer than a maximum of six months. (See Commonwealth of Pennsylvania Department of Corrections, Administrative Manual Vol. VI OM-082.07. Defendant's Brief, Exhibit 3).