

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

DAVID RUIZ, et al.,
Plaintiffs,

UNITED STATES OF AMERICA,
Plaintiff-Intervenor,

vs.

WAYNE SCOTT, et al.,
Defendants.

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)
) Civil Action No. H-78-987
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)
) UNITED STATES DISTRICT COURT
) SOUTHERN DISTRICT OF TEXAS
) ENTERED

)
) SEP 25 1996
)

) Michael N. Milby, Clerk
)

ORDER

The Court has reviewed defendants' Supplemental Motion to Vacate Final Judgment, filed September 6, 1996, under the Prison Litigation Reform Act ("PLRA"), and plaintiffs' response thereto. The Court also takes note of defendants' Motion to Vacate Final Judgment filed March 25, 1996, pursuant to Fed. R. Civ. P. 60(b), and the parties' Report to the Court filed August 8, 1996, contemplating the development of a factual record and an evidentiary hearing.

It is impossible for the Court to resolve defendants' motions within the 30-day period specified in 18 U.S.C. sec. 3626(e)(2)(A)(i), or the 180-day period in subsection (A)(ii). The Court believes that the status quo should be preserved pending the resolution of defendants' motions, and finds that the PLRA "automatic stay" provisions violate the Separation of Powers and due process of law,

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substantially for the reasons discussed in Hadix v. Johnson, No. 80-CV-73581, 1996 U.S. Dist. LEXIS 9864 (E.D Mich. July 5, 1996), and Gavin v. Ray, No. 4-78-CV-70062 (S.D. Iowa, Sept. 18, 1996).

Accordingly, the Court will proceed to give due consideration to both of defendants' motions when the parties are ready for a hearing on them. In the meantime, the Final Judgment remains in full force and effect.

Dated: September 23, 1996


UNITED STATES DISTRICT JUDGE