

ENTERED

January 16, 2018

David J. Bradley, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

KEITH COLE, et al,

Plaintiffs,

v.

BRYAN COLLIER, et al,

Defendants.

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CIVIL ACTION NO. 4:14-CV-1698

**MEMORANDUM AND OPINION SETTING OUT
FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Before the Court is Plaintiffs’ unopposed motion to extend the preliminary injunction issued in this class action. The history and facts of this action are set out in greater detail in the Court’s prior order entered July 19, 2017 and October 12, 2017. *See* Docket Entry 737 & 854.

Defendants’ lack of opposition is conditioned on the parties’ agreement that neither party makes any concession regarding the merits and neither side shall be prejudiced by seeking or agreeing to any extension of the preliminary relief or any findings required to extend the preliminary relief.¹ Nevertheless, this Court must analyze the evidence presented to ensure that a continuing preliminary injunction remains necessary to correct an ongoing constitutional violation. *See* 16 U.S.C. § 3626(c)(1). After considering the evidence presented throughout this matter, the arguments of counsel, and all applicable law, the Court finds and concludes that Plaintiffs’ motion should be GRANTED. The Court finds and concludes as follows:

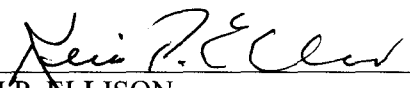
¹ Defendants do not concede the merits of Plaintiffs’ claims or the Court’s preliminary injunction order. The Court finds that Defendant has not waived any argument or defense.

The Court finds that the evidence presented during the hearings in this matter will be equally applicable, in the absence of an order from this Court, during the summer of 2018. As to the facts, the evidence shows that the summer of 2018 will again be dangerously hot,² and that a Court order will be necessary to ensure that the same constitutional violations do not recur in 2018.³ Further, no intervening precedent changes the Court's legal analysis.

Accordingly, after considering all of the evidence before the Court, the arguments of counsel, all applicable filings, and all applicable law, the Court incorporates the findings and conclusions contained in its July 19, 2017 and October 12, 2017 orders. Docket Entry 737 & 854; *see* FED. R. CIV. PROC. 65(a)(2). Based on these findings and conclusions, the Court ORDERS that the preliminary relief set forth in its July 19, 2017 order shall continue in effect, subject to the clarification in Doc. 854.

Accordingly, TDCJ is hereby ORDERED to propose any changes or clarifications to its plan for compliance, consistent with the foregoing, by February 9, 2018. Plaintiffs shall respond no later than March 23, 2018.

SIGNED in Houston, Texas, on this the 12th day of January, 2018.



KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE

² *See, e.g.*, Plaintiffs' 2017 Hearing Exhibit 5; Docket Entries 693 & 693-1.

³ *See, e.g.*, Docket Entry 720-11, p. 15, Deposition of C. Ginsel as TDCJ 30(b)(6) representative, p. 57:8-15; Docket Entry 720-13, pp. 10-12, Deposition of L. Linthicum, pp. 206:21-208:10; Docket Entry 721.