

DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

LAWRENCE CARTY, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civil No. 94-78
)	
KENNETH MAPP, et al.,)	
)	
Defendants.)	
)	
)	

ATTORNEYS:

Eric Balaban

National Prison Project of the ACLU
Washington, DC
For the plaintiff Lawrence Carty,

Claude Walker, Acting AG
Shari N D'Andrade, AAG
Carol Thomas-Jacobs, AAG
Richard Schrader, JR, AAG
Ariel Marie Smith-Francois, AAG
Virgin Islands Department of Justice
Christiansted, VI
For the defendant Governor Kenneth Mapp.

ORDER

Before the Court is the motion of Lawrence Carty ("Carty") to enforce a June 28, 2011, order requiring Dr. James Austin to perform an assessment of the Criminal Justice Complex and its Annex.¹

¹This Court previously ruled on this motion on December 9, 2015. This order outlines the reasons for the Court's ruling.

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On October 12, 1994, the parties entered into a consent decree whereby the government agreed to improve conditions in two correctional facilities, the St. Thomas Criminal Justice Complex and the Alva Swan Annex. The consent decree required the government to address various deficiencies in the correctional facilities. These deficiencies include, among other things, a lack of adequate supervision of inmates and inadequate training of corrections officers.

On June 28, 2011, the Court issued an order assigning Dr. James Austin to serve as a population manager and classification expert. The order also required Dr. Austin to perform periodic criminal justice assessments to assist the government in reducing the prisoner population at the Criminal Justice Complex and Annex. The government moved for reconsideration of the Court's June 28, 2011 order.

Thereafter, on May 10, 2015, Dr. Austin sent an email to the government notifying the government that he wanted to make a site visit to the correctional facilities in June, 2015, to conduct his criminal justice assessment in line with the June 28, 2011 order. Dr. Austin inquired as to whom he should meet to conduct his work. The government informed Austin that no provision of the consent decree authorizes such an assessment and, as such, he could not perform that task.

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On June 2, 2015, Carty filed a motion to enforce the June 28, 2011 order. On December 9, 2015, a regularly scheduled quarterly evidentiary hearing was held.

During the hearing, the government acknowledged that nothing has superseded the original order. At the same time, the government argued that it did not have to comply with the June 28, 2011 order while the motion for reconsideration was still pending.

The government seems to rely on the assumption that the pendency of a motion to reconsider an order of the Court obviates the need to comply with the underlying order. That reliance is misplaced. *See, e.g., Alexander v. Chicago Park Dist.*, 927 F.2d 1014, 1021-22, 1025 (7th Cir. 1991) (affirming the district court's finding of contempt where a party failed to follow an order while the order was the subject of a pending motion for reconsideration). Indeed, it is axiomatic that an order of the Court remains in full force and effect until a subsequent order vacates, modifies, or otherwise reverses the order. *See Horne v. Flores*, 557 U.S. 433, 469-70 (2009) (holding that a district court's order remained in effect until modified or rescinded).

The premises considered, it is hereby

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ORDERED that the Motion to Enforce the June 28, 2011 order
is **GRANTED**.

S\ _____
Curtis V. Gómez
District Judge