

2005 WL 8186965

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United States District Court, District of Columbia.

Besseye NEAL, et al., Plaintiffs,  
v.  
DIRECTOR, D.C. DEPARTMENT OF  
CORRECTIONS, et al., Defendants.

Civil Action No. 93-2420 (RCL)

Signed October 5, 2005

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the District of Columbia D.C. Department of Corrections,  
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### MEMORANDUM AND ORDER

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Royce C. Lamberth, United States District Judge

\*1 This matter comes before the Court on plaintiffs' motion [2358] to extend jurisdiction pursuant to the Consent Decree for the sole purpose of granting quasi-judicial immunity to the Office of the Special Inspector ("OSI"). In that motion and plaintiffs' reply to defendants' opposition, plaintiffs: (1) argue that this Court is vested with jurisdiction to grant plaintiffs' prayer for relief; (2) seek enforcement of the Court's final order dated June 16, 2001; and (3) assert that circumstances justify the Court's extension of its jurisdiction. Upon consideration of plaintiffs' motion, the opposition thereto, the reply brief, defendants' sur-reply, the applicable law, and the entire record herein, the Court concludes that the plaintiffs' motion should be granted. This memorandum briefly sets forth the basis of the Court's conclusion.

Although the Court-approved Consent Decree generally expired on February 4, 2004, this Court still retains limited jurisdiction. For example on February 17, 2004, the Court agreed, upon the parties' request, to supervise the ongoing funding of the OSI. At any time, the Department of Corrections could, as a matter of law, have sought to revoke the Court's supervision of the OSI funding on the grounds that the Consent Decree had expired. It did not. To the contrary, defendants abided by the terms of the Stipulation to which they agreed and made no effort to challenge the Court's jurisdiction.

Defendants contend that plaintiffs seek modifications to the Consent Decree without demonstrating the "standards for a modification in the terms of the Consent Decree and Court Orders." Opp. 5. This Court disagrees. This Court's Final Order dated June 16, 2001, granted "the Special Inspector and his agents ... quasi-judicial immunity

[against] all private damage suits against them arising out of official decisions and actions.” This Court, once again, reiterates the importance of the functions of the Special Inspector. The Court finds that plaintiffs are not petitioning for a modification but rather ask the Court to continue vesting the Special Inspector with limited liability, thereby expressly extending the applicability of its Final Order as to that issue.

Moreover, even if this Court were to view the granting of quasi-judicial immunity to the Special Inspector as a modification of the Consent Decree, it would still be justified under the terms of the Consent Decree and by Rufo v. Inmates of Suffolk County Jail, 502 U.S. 367 (1992)

The Consent Decree states in the second section of III(B), “[i]n the event that either party to the Decree believes that exigent circumstances exist that make it necessary to apply to the Court for relief more promptly than the Procedure set forth above would permit.” The denial of quasi-judicial immunity for the Special Inspector constitutes a sufficient exigent circumstance as it is defined in the Consent Decree. The Special Inspector would be placed in a “situation which cannot be remedied by the SI and from which severe irreparable harm would result absent immediate judicial intervention.” Consent Decree, III(B). Failure to grant quasi-judicial immunity would not only subject the Special Inspector and his agents to frivolous litigation and complaints, but it would also divest the Special Inspector of the independence and impartiality necessary to perform his duties.

\*2 The need for quasi-judicial immunity is particularly great given the history of the Special Inspector, Mr. Balaran. Mr. Balaran served not only as Special Inspector for two years, but also as Special Master for five years. In both positions, Mr. Balaran rendered judgments denying relief to many agency employees who may now seek to use his non-judicial status as an opportunity to retaliate. Therefore, without the immunity, “future harassment or intimidation of the Special Inspector by the parties he hears is a realistic prospect.” Final Order 23.

Finally, under Rufo, a moving party must demonstrate that there is (1) a significant change in circumstances warranting modification of the decree and (2) that the

proposed modification is suitably tailored to the changed circumstances. 502 U.S. at 383-84 (1992). The Court went on to add that “the public interest is a particularly significant reason for applying a flexible modification standard in institutional reform litigation,” *Id.* at 759 (emphasis added). In this case, if the OSI were no longer covered by the Consent Decree, the Special Inspector would not have the protection of the court. As discussed above, the absence of these protections might affect the impartiality of the Special Inspector. Under Rufo, this represents a “significant change in facts ... warranting revision of the decree.” 502 U.S. 368. Moreover, extending to the OSI the same protection granted in the Final Order on June 16, 2001 and again, on March 23, 2003, is “suitably tailored to the changed circumstances.” *Id.* at 383-84

For the foregoing reasons, the Court concludes that (1) this Court is vested with jurisdiction to grant plaintiffs’ prayer for relief and (2) circumstances justify the Court’s extension of its jurisdiction. Accordingly, it is hereby

ORDERED that the plaintiffs’ motion [2358] to extend jurisdiction pursuant to the Consent Decree for the sole purpose of granting quasi-judicial immunity to the office of the Special Inspector is GRANTED; and it is further

ORDERED that the Office of the Special Inspector of the District of Columbia Department of Corrections is hereby granted quasi-judicial immunity; and it is further

ORDERED that plaintiff’s motion [2362] for an enlargement of time to file a reply to defendant’s opposition is GRANTED, nunc pro tunc; and it is further

ORDERED that defendants’ Motion [2364] for leave to file a surreply to plaintiffs’ motion to extend jurisdiction is GRANTED, nunc pro tunc.

SO ORDERED.

#### All Citations

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