

181 F.3d 105

Unpublished Disposition

NOTICE: THIS IS AN UNPUBLISHED OPINION.

(The Court's decision is referenced in a "Table of Decisions Without Reported Opinions" appearing in the Federal Reporter. Use FI CTA6 Rule 28 and FI CTA6 IOP 206 for rules regarding the citation of unpublished opinions.)

United States Court of Appeals, Sixth Circuit.

UNITED STATES OF AMERICA,  
Plaintiff-Appellee,

v.

STATE of Tennessee, Defendant-Appellant,  
PEOPLE FIRST OF TENNESSEE;  
Parent-Guardian Association of Arlington  
Developmental Center, Interveners-Appellees.

No. 98-5108.

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May 14, 1999.

On Appeal from the United States District Court for the  
Western District of Tennessee.

Before KRUPANSKY, SILER, BATCHELDER, Circuit  
Judges.

### Opinion

PER CURIAM.

\*1 Appellant, the state of Tennessee, appeals a district court judgment adopting a consent order negotiated to settle appellee United States's motion for contempt. The district court had previously found that the conditions at Tennessee's Arlington Development Center (Arlington) violated the residents' Fourteenth Amendment rights. *United States v. Tennessee*, No. 92-2062-M1, (W.D. Tenn. Feb. 18, 1994). The district court issued a Remedial Order to alleviate the constitutional deficiencies. *United States v. Tennessee*, No. 92-2062-M1 (W.D.Tenn. Sept. 2, 1994).

In a separate action, *People First of Tennessee v. Arlington Development Center*, No. 92-2213 (W.D.Tenn.), the district court adopted the findings of *United States v. Tennessee*, certified a class including all

past, present, and future residents of Arlington ("the *People First* class"), entered the Remedial Order from *United States v. Tennessee* as the remedy, and consolidated the two actions. The district court allowed both *People First of Tennessee* and the Parent-Guardian Association of Arlington Development Center, to intervene as plaintiffs in *United States v. Tennessee. People First of Tenn. v. Arlington Dev. Ctr.*, No. 92-2213-M1/V, slip op. at 7 (W.D. Tenn Sept. 27, 1995).

Tennessee now claims that the district court wrongly determined that the consent order in *United States v. Tennessee* applies to the *People First* class, that modifications to the consent order were an abuse of discretion, and that judicial enforcement of the consent order inordinately infringes upon state sovereignty. While this panel does not adopt every aspect of the district court's opinion, it will affirm the judgment.

Tennessee is barred from contesting the application of the Remedial Order to the *People First* class by the doctrine of collateral estoppel as enunciated in *N.A.A.C.P. v. Detroit Police Officers Association*, 821 F.2d 328, 330 (6th Cir.1987). The availability of collateral estoppel is a mixed question of law and fact which this court reviews de novo. *United States v. Sandoz Pharm. Corp.*, 894 F.2d 825, 826 (6th Cir.1990). In the subject action, all of the requirements are met.

Modification of a consent decree is reviewed for abuse of discretion. *Lorain N.A.A.C.P. v. Lorain Bd. of Educ.*, 979 F.2d 1141, 1148-49 (6th Cir.1992). The order of the district court did not exceed the discretion afforded to the district courts to modify institutional consent decrees. *Heath v. De Courcy*, 888 F.2d 1105, 1109-10 (6th Cir.1989).

Neither did the district court err by enforcing the consent order as an order of the court. A district court's decision to issue an injunction is reviewed for an abuse of discretion. *Wayne v. Village of Sebring*, 36 F.3d 517, 531 (6th Cir.1994). An abuse of discretion is defined as a definite and firm conviction that the district court committed a clear error of judgment. *Bowling v. Pfizer, Inc.*, 102 F.3d 777, 780 (6th Cir.1996). The district court did not exceed its injunctive powers under the test established in *Spallone v. United States*, 493 U.S. 265, 276 (1990).

\*2 Accordingly, the judgment of the district court is AFFIRMED.

**All Citations**

181 F.3d 105 (Table), 1999 WL 357785

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