IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

BOBBY M, et al.,

Plaintiffs,

v. CASE NO. 4:83cv7003-MP

LAWTON CHILES, et al.,

Defendants.
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O R D E R

This matter is before the Court on two motions filed by Defendants: (i) an Unopposed Motion to Terminate Portions of the Consent Decree Relating to Eckerd Youth Development Center ("EYDC") (doc. 547) ("the unopposed motion"); and (ii) a Motion to Terminate Consent Decree and Notice of Automatic Stay ("the contested motion") (doc. 548), to which Plaintiffs filed a reply memorandum (doc. 549). A hearing was held on October 23, 1996 at which the motions were discussed. For the reasons explained below, the motions are GRANTED.

In the unopposed motion, the Defendants indicate that all are in accord that it is now time to terminate all portions of the original consent decree which has governed EYDC for over thirteen years, except those portions which relate to so-called "environmental matters". Based on this agreement of the parties, and on the expert reports which are part of the record in this

matter, the Court finds that the Defendants have now achieved substantial compliance with the vast majority of the decretal objectives at EYDC. It is therefore appropriate, preliminarily, to terminate the consent decree as to all portions of the consent decree save those pertaining to environmental matters[1]. The unopposed motion (doc. 547) is GRANTED.

Thus, the only issue which remains before this Court is whether the Court should continue to hold this thirteen-year-old consent decree over the heads of the Defendants as a means of compelling the officials in charge to address the fire safety risks identified by the court-appointed expert, or whether the Court should finally put the decree to rest.

As the Court pointed out in its Order dated October 30, 1995, at the time that this case came before the Court, vicious penal practices -- such as hog-tying juvenile detainees -- were employed at the facilities. All parties agree that the days of hog-tying have passed, and that conditions of confinement have improved dramatically as a result of this litigation and as a result of the

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[1] In their response (doc. 549) to Defendants' motion to terminate the decree entirely, Plaintiffs acknowledge that many of the "environmental matters" requiring action by Defendants -- problems involving inadequate drainage of ground water, inadequate ventilation, exposed electrical wires, leaking roofs, inadequate lighting, improper garbage disposal, unsanitary toilets, etc. -- have been remedied by EYDC officials. According to Plaintiffs, the unitary environmental matter at EYDC which persists, and which arises to the level of constitutional concern, involves fire safety risks at the facility.

In the words of Plaintiffs' counsel, any other environmental matters cited in the court-appointed expert's report which have yet to be remedied "are relatively minor and appear not to rise to constitutional violations." Plaintiffs' Reply to Defendants' Motion to Terminate Consent Decree (doc. 549) at 2, n.1.

efforts of state officials to achieve compliance with the obligations imposed under the decree. Thirteen years later, the only shortcoming that Plaintiffs' counsel can now characterize as a constitutional infirmity is non-compliance with specified fire safety recommendations.

In the contested motion, counsel for Defendants argues that the newly-promulgated Prison Litigation Reform Act of 1995, 18 U.S.C.A. § 3626 (the "PLRA"), requires this Court to bring the life of this consent decree to an abrupt halt. Based on the plain language of that statute, the Court agrees.

The PLRA states:

> In any civil action with respect to prison conditions, a defendant . . . shall be entitled to immediate termination of any prospective relief if the relief was . . . granted in the absence of a finding by the court that the relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right, and is the least intrusive means to correct the violation of the Federal right.

18 U.S.C.A. § 3626(b)(2). This provision is applicable to the case *sub judice*. At the time that this Court adopted the consent decree which has governed this case for over a decade, the PLRA was not yet in existence. For that reason, this Court obviously could not divine that it would be required to comply with the statute's requirement that it enter specific written findings before ordering prospective relief. Nonetheless, under the language of the PLRA, the Court's lack of notice is more or less irrelevant; because the above-described findings were not made, the defendants are entitled to immediate termination of the consent decree *if* § 3626(b)(3), the statutory limitation to this "immediate termination" clause, is

inapplicable.

According to the PLRA, immediate termination of a consent decree would not be appropriate -- even where a court had failed to make specific findings as enumerated in § 3626(b)(2) -- if the court, faced with a motion to terminate the consent decree,

> makes written findings based on the record that prospective relief remains necessary to correct a current or ongoing violation of the Federal right, extends no further than necessary to correct the violation of the Federal right, and that the prospective relief is narrowly drawn and the least intrusive means to correct the violation.

18 U.S.C.A. § 3626(b)(3). Thus, the statute operates to give a court such as this one a second opportunity to enter findings that would maintain the decretal status quo. Stated differently, a court which -- for whatever reason -- neglected to comply with the requirements of § 3626(b)(2) at the time that it adopted a consent decree has not condemned that decree to automatic termination at the whim of any party who brings that neglect to the court's attention. For, under the PLRA, a court is empowered to enter after-the-fact findings which would allow the decree to carry on.

In their response and at oral argument, Plaintiffs do not take issue with Defendants' assessment that the Court did not make the findings required by § 3626(b)(2) in 1987 when the consent decree was adopted. Instead, Plaintiffs ask the Court to find -- now -- that the lingering fire safety issues justify continuance of the consent decree. This the Court cannot do.

In order to resuscitate the consent decree and allow it to live on, the Court would have to make the following findings: (i)

that the unaddressed fire safety concerns amount to an ongoing violation of the EYDC detainees' federal constitutional rights; (ii) that continuation of this consent decree is necessary in order to correct the ongoing violation; (iii) that the consent decree extends no further than is necessary to correct that violation; and (iv) that the consent decree is narrowly-drawn and is the least-intrusive means of ensuring that the violation will be corrected. 18 U.S.C.A. § 3626(b)(3). Assuming, *arguendo*, that the extant fire safety concerns at EYDC, standing alone, could constitute a violation of the juvenile detainees' constitutional rights[2], the Court must address the crucial question: Is continuation of the consent decree a *necessary* means of ensuring that officials at EYDC take action to remedy the shortcomings in the area of fire safety at that facility? The Court finds that the answer to this questions is simple: No.

The record is clear that EYDC officials have already dealt with and remedied a number of the problems which were identified in the court-appointed monitor's March 1995 report. Moreover, to the extent that some of the identified problems areas remain, they have been noted and incorporated into the renovation and construction plans for EYDC, and they will be eradicated upon the completion of construction early in the Spring of next year. Thus, prolonging the life of this consent decree is unnecessary.

The defendants have gone to the expense of putting plans in

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[2] The Court notes, having read the cases submitted by the Plaintiffs in support of this argument, that this conclusion is highly suspect.

motion which soon will produce full compliance with the monitor's fire safety recommendations. All that is left is for the construction crews to perform the labor which is specified in those plans. At oral argument, counsel for Plaintiffs asked, rhetorically, "What will be the motivation to complete renovations that [EYDC officials] have had trouble completing since January of 1995 if they [don't] have the injunction?" In answer to her own question, counsel indicated, "I think that the injunction is necessary in order to wait until these fire safety risks are remediated." The Court does not agree.

At this point in time, EYDC officials do not need the specter of a tired consent decree and continued federal court supervision casting a shadow over their facility as motivation to see their construction project through to completion. The Court finds no reason to reach the rather cynical conclusion that EYDC officials will scrap the plans they have adopted, and abandon their construction project altogether, solely because this Court is no longer directing its vision in the direction of their facility and maintaining jurisdiction over their activities. To the contrary, the Court finds that the progress made over the last decade at the facilities which were governed by this consent decree bespeaks of the good faith and diligence of the defendants, and provides strong reason for the Court to assume that the construction will be completed on schedule.

In passing the PLRA, Congress sought to minimize the federal judiciary's tendency to supplant state prison officials' control

over state-run penal institutions for unreasonable amounts of time. To be sure, even under the PLRA, this Court maintains its solemn duty to safeguard the constitutional rights of inmates in the custody of the state. The statute simply announces the truism that a federal judge should oversee the day-to-day activities of a state-run penal institution such as EYDC only so long as is absolutely necessary to protect inmates' federal constitutional rights. The Court is now convinced that further supervision of defendants and EYDC is unnecessary. For that reason, the consent decree must be put to rest.

It is hereby

ORDERED AND ADJUDGED:

(1) Defendants' Unopposed Motion to Terminate Portions of the Consent Decree Relating to Eckerd Youth Development Center (doc. 547) is GRANTED.

(2) Defendants' Motion to Terminate Consent Decree and Notice of Automatic Stay (doc. 548) is GRANTED.

(3) The Clerk is directed to CLOSE this case.

DONE AND ORDERED this 6TH day of November, 1996.

MAURICE M. PAUL, CHIEF DISTRICT JUDGE