

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

VALERIE WEST, ET AL. : CIVIL NO. 2: 83-CV-366(RNC)(HBF)
V. :
COMMISSIONER MANSON, ET. AL. : MARCH 31, 2017

DEFENDANTS' MOTION TO IMMEDIATELY TERMINATE
PROSPECTIVE INJUNCTIVE RELIEF PURSUANT TO
18 U.S.C. § 3626 (b)(2).
AS TO SECTION IX, PARAGRAPH 2
OF THE 1989 CONSENT JUDGMENT

The defendants, Scott Semple, Commissioner of Correction, et al., respectfully move to immediately terminate Section IX, paragraph 2, of the Consent Judgment entered January 9, 1989, by Judge Nevas. (**Exhibit A**, attached). This prospective injunctive relief is not constitutionally required under the Supreme Court's access to court doctrine, as explained in *Lewis v. Casey*, 518 U.S. 343 (1996), and further, was approved, "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 necessary to correct the violation of the Federal right." 18 U.S.C. § 3626 (b)(2). Accordingly, because there is an absence of such a finding and there have been significant intervening changes of fact and in the law, the defendants are entitled to "the immediate termination" of section IX, ¶ 2, of the January 9, 1989, Consent Judgment in this case. In effect, this immediate termination will eliminate the one full-time attorney "to represent CCIN inmates" in family matters. At present "CCIN" no longer exists in name; there is a relatively newly constructed correctional facility, York CI, and this new facility has a library, with some legal resources. Unlike the old CCIN, which had no library, this requirement of

the Consent Judgment, for an attorney to represent women inmates in family matters, is not only not required as a matter of constitutional law, it also has been found, at least in the context of two court decisions denying the Commissioner of Correction's motions to dismiss, to state a colorable Equal Protection violation vis a vis male inmates, who do not have the same provision of legal services. See e.g. *Harnage v. Schulman*, KNL- CV-12-5014356, J.D. of New London, (Conn. Super Ct. Dec. 23, 2013)(**Exhibit B**, attached); *Harnage v. Dzurenda*, 176 F. Supp. 3d 40 (D. Conn. 2016).

In support of this motion, the defendants file an accompanying memorandum of law.

DEFENDANTS
Commissioner Scott Semple, Et Al.

GEORGE JEPSEN
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CERTIFICATION

I hereby certify that on March 31, 2017, a copy of the foregoing motion was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Steven R. Strom

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