

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JOHN RHODES, individually and on behalf))	
of himself and all others similarly situated,)	
)	Civil Action No.
Plaintiffs,)	1:91-CV-2908-ODE
v.)	
)	
JOHN SEAY, individually and in his official))	
capacity as Sheriff of Cherokee County,)	
Georgia and Cherokee County,)	
)	
Defendants.)	

MOTION TO TERMINATE CONSENT ORDER

Defendants Cherokee County, Georgia and Cherokee County Sheriff Roger Garrison in his official capacity¹, bring this motion pursuant to the Prison Litigation Reform Act, 18 U.S.C. § 3626(b)(1)(B) to terminate the Consent Order entered in this matter which orders prospective relief to be taken with respect to conditions at the former Cherokee County Jail, and to terminate the underlying lawsuit.

¹ A Motion for Substitution pursuant to FED. R. CIV. P. 25(d) seeking the substitution of John Seay (the former sheriff of Cherokee County) in his official capacity with Roger Garrison (the current sheriff of Cherokee County) in his official capacity has been filed contemporaneously with this Memorandum of Law.

The Consent Order should be terminated because it was entered before the enactment of the Prison Litigation Reform Act, 18 U.S.C. § 3626 (“PLRA”) and more than two years have passed since the enactment of the PLRA.

Moreover, the Consent Order fails to make the findings required by the PLRA to substantiate the grant of prospective relief.

Finally, there is no current and ongoing violation of Federal rights occurring at the New Jail, as discussed more fully in the accompanying memorandum of law. With the termination of the Consent Order, the underlying lawsuit should be terminated as well.

Respectfully submitted,

FREEMAN MATHIS & GARY

/s/ Michelle J. Hirsch

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Attorneys for Roger Garrison in his
official capacity as Sheriff of
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MJH1876/5409-41864

CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed the foregoing **MOTION TO TERMINATE CONSENT ORDER** with the clerk of the court using the CM/ECF system and by United States Postal Service, first-class postage prepaid, and have served said document via United States Postal Service, first-class postage prepaid, to the following:

Ralph Goldberg, Esq.
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M. Linda Mabry
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This 22nd day of February, 2007.

/s/ Michelle J. Hirsch

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