

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

MARION COUNTY JAIL INMATES,)
)
Plaintiffs,)
) Cause No. IP-72-0424C-D/F
-vs-)
) Class Action
JACK COTTEY, et al.,)
)
Defendants.)

E N T R Y

Heretofore, this Court has issued various orders relative to the prisoner populations of the Marion County Jail, Marion County Lockup, and Marion County Holding Cell, the most recent of which is dated September 6, 1995. The defendants agreed to many of such orders, which provide, among other things, that the Sheriff of Marion County shall release pretrial detainees according to a certain formula if necessary to maintain strict compliance with population capacities placed on such facilities.

A recent act of the Congress of the United States known as the Prison Litigation Reform Act of 1995, 18 U.S.C. § 3626 provides in section (b)(2) that a defendant shall be entitled to the immediate termination of any prospective relief if the relief was approved or 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 a Federal right, and is the least intrusive means necessary to correct the violation of a Federal right. On July 21, 1997 the defendants moved to terminate immediately such prisoner release orders pursuant to

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said statute.

Plaintiffs responded to said motion by moving for a temporary restraining order and preliminary injunction to stay said automatic termination provision. The motion was granted by the Court as to a temporary restraining order which was entered on August 19, 1997 at 10:00 a.m. Hearing was assigned for August 28, 1997 on that part of the motion which seeks a preliminary injunction. On August 27, 1997 defendants moved to vacate said hearing, and agreed that a preliminary injunction could be entered. The hearing was vacated.

The Court, having considered the foregoing, and having also reviewed its previous rulings, especially the findings of fact made by the Court in its memorandum of decision dated December 12, 1988, made pursuant to an adversary hearing, now finds that a preliminary injunction should be granted, enjoining and prohibiting the automatic termination provision, 18 U.S.C. § 3626(b)(2) from taking effect until the further order of the Court.

In addition to the consent of the defendants, this preliminary injunction is appropriate because the Court makes a finding based on the record, as set out in said memorandum of decision dated December 12, 1988, as modified, and upon the reports of the Special Master, reflecting that populations frequently exceed the agreed limits, that prospective relief remains necessary to correct current and ongoing violations of the Federal right of prisoners not to be overcrowded, and that

the prospective relief is narrowly drawn and is the least intrusive means to correct the violation.

The traditional standards for a preliminary injunction are also present, viz.:

- (a) Plaintiffs will likely prevail on their claim that 18 U.S.C. § 3626(b)(2) is unconstitutional;
- (b) If automatic termination takes effect, plaintiffs will be caused irreparable harm for which there is no adequate remedy at law;
- (c) The irreparable harm outweighs any harm that defendants will suffer by the granting of the injunction; and
- (d) The granting of the injunction will not harm the public interest.

It is therefore ordered and decreed that the automatic termination provision of the Prison Litigation Reform Act is enjoined and prohibited from taking effect, insofar as this case is concerned, until the further order of the court.

Dated this 29th day of August, 1997, at 9:20 a.m.



S. Hugh Dillin, Judge

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