

1995 WL 66638

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United States District Court, E.D. Louisiana.

Lafourche Parish Sheriff, Craig WEBRE

v.

Steven D. WILSON and The Lafourche Parish  
Council

Civ. A. No. 94-3494. | Feb. 17, 1995.

## Opinion

### ORDER AND REASONS

MENTZ, District Judge.

\*1 This mandamus action was filed by Lafourche Parish Sheriff Craig Webre in the 17th Judicial District Court, Parish of Lafourche, Louisiana against the Lafourche Parish Council and its President, Steven Wilson. Webre seeks an order compelling the Parish of Lafourche to pay him for expenses relating to Parish prisoners' medical care, keeping and feeding, transportation, and compensation for attendance of court sessions as required by Louisiana state law. *See* La.Rev.Stat. ann. §§ 15:703; 33:1432; 33:1430. The defendants removed the suit to this Court based on the All Writs Act, 28 U.S.C. § 1651. There is no diversity of citizenship or federal question jurisdiction in this suit. Before the Court are Webre's motion to remand to state court for lack of jurisdiction and the defendants' motion to transfer to the Middle District of Louisiana.

The defendants contend that removal was authorized under the All Writs Act to protect a Consent Decree entered on September 8, 1982 between former Lafourche Parish Sheriff Duffy Breaux and Lafourche Parish before the federal district court for the Middle District of Louisiana. That decree established the maximum number of inmates to be housed in Lafourche Parish Jail, the minimum number of guards to be on duty, and inspection rights for the state fire marshal and health officer.

Pursuant to an arrangement existing for several years between former Sheriff Breaux and Lafourche Parish, the Sheriff donated to the Parish 25% of the sales taxes levied monthly for jail and law enforcement purposes. The Parish would in turn use those funds to satisfy its obligations under state law to pay for maintenance, food, clothing and medical care for its prisoners. In July, 1994, Sheriff Webre stopped paying the Parish from the tax

revenues.

It is the defendants' position that without the donation of sales tax revenues, there are insufficient funds available for the Parish to pay the expenses of caring for the prisoners. The defendants contend that if the Sheriff were to succeed in this mandamus action, the financial obligations on the Parish will directly impact its ability to comply with the Consent Decree. They maintain that although this Court has no subject matter jurisdiction, this Court has removal jurisdiction under the All Writs Act to prevent the frustration of the express and implied requirements of the Consent Decree. They contend that even though the Consent Decree was issued in the Middle District, the Eastern District has the power to issue all writs necessary to protect the jurisdiction of that court.<sup>2</sup> They urge however, that the suit be transferred to the Middle District because that district has continuing jurisdiction over the conditions at the Parish jail, and because the Middle District has exercised jurisdiction over this matter by scheduling a status conference.<sup>3</sup>

This case does not present the exceptional circumstances under which a district court may invoke the power of the All Writs Act to prevent interference with its orders. Removal to federal court was not necessary to protect the integrity of the Consent Decree. The present suit involves matters different from the Consent Decree.

\*2 Sheriff Webre seeks to have the Lafourche Parish meet its statutory obligations to pay for prisoner clothing, feeding, medical care, and transportation. The Consent Decree sets limits for prison population. The Consent Decree does not address fiscal responsibility for prisoner maintenance or standards for prisoner feeding, clothing, medical care, or transportation. The Court is unable to agree with the defendants' interpretation that the Consent Decree "implicitly" requires prisoners be cared for in a constitutional manner, other than with respect to population limits. The possibility that this suit may result in the Parish having insufficient funds to satisfy its financial obligations to care for prisoners and therefore may have some future impact on the ability of the Sheriff or the Parish to comply with the prison population limits set by the Consent Decree is too remote to warrant invoking the extraordinary power of the All Writs Act. *See Williams v. McKeithen*, 939 F.2d 1100 (5th Cir.1991) (possible future impact of Sheriff's agreement to house prisoners from outside Louisiana on ability of Parish to comply with the Consent Decree does not warrant district court issuing injunction under the All Writs Act).

Assuming jurisdiction over Webre's suit is not necessary to preserve constitutional protections to prisoners. There is no allegation or evidence of any constitutional violations or violations of the Consent Decree. The suit is

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not an attempt to circumvent the Consent Decree. There is no threat of inconsistent orders. The suit does not involve relitigation of matters already decided by the Consent Decree.

The authority of the All Writs Act cannot support removal jurisdiction in this case. As this court is without subject matter jurisdiction, it is without power to transfer the case to the Middle District. *See Campbell v. Hilton Hotels Corp.*, 611 F.Supp. 155 (E.D.La.1985).

Even if this Court had the power to transfer, the exercise of that power would not be appropriate. In *Hamilton v. Morial*, 644 F.2d 351 (5th Cir.1981), the Fifth Circuit Court of Appeal directed that all litigation in any United States district court in the Fifth Judicial District seeking to protect the constitutional rights of inmates in Louisiana threatened by overcrowded conditions be transferred to the Middle District of Louisiana. The Middle District of Louisiana clearly has continuing jurisdiction over all such litigation. However, contrary to the defendants' representation, *Hamilton* did not confer power on the Middle District to oversee all conditions of confinement in Louisiana prisons. *Hamilton* addresses only litigation seeking to redress overcrowded conditions that threaten constitutional rights. The dispute in this case does not involve overcrowded conditions that threaten inmates constitutional rights. Therefore, the facts of this case would not support a transfer to the Middle District pursuant to *Hamilton*.

Footnotes

- 1 The All Writs Act, 28 U.S.C. § 1651, provides in pertinent part:  
The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.
- 2 The defendants explain that they removed the case to the Eastern District of Louisiana, rather than the Middle District, because under 28 U.S.C. § 1441 an action must be removed to the federal district court where the state action is pending. This suit was originally filed in the 17th Judicial District for the Parish of Lafourche, which is within the Eastern District.
- 3 Prior to the present suit being filed, the President of the Lafourche Parish Council, Steven D. Wilson, contacted United States District Judge Frank Polozola of the Middle District requesting that he mediate the dispute with Sheriff Webre. Judge Polozola scheduled a status conference, but subsequently canceled it without rescheduling.

\*3 Likewise, the fact that a district judge of the Middle District set and subsequently canceled a status conference to mediate the dispute which forms the basis of this lawsuit does not support transfer. Defendants argue that such action constitutes an exercise of jurisdiction by that court such that interests of comity and judicial economy warrant a transfer. Even if this Court had power to transfer, which it does not due to a lack of subject matter jurisdiction, the mere setting and canceling of a status conference is not a meaningful exercise of jurisdiction sufficient to justify a transfer based on comity and economy. This is particularly true where as here it appears that there is no case or controversy over which the Middle District could have properly exercised jurisdiction. *See Williams*, 939 at 1105.

Accordingly,

IT IS ORDERED that:

- 1) Defendants' Motion to Transfer to the Middle District of Louisiana is DENIED;
- 2) Plaintiff's Motion to Remand for Lack of Jurisdiction is GRANTED, remanding this suit to the 17th Judicial District for the Parish of Lafourche, Louisiana.