

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA

UNITED STATES OF AMERICA,)	
)	
PLAINTIFF)	Civil Action No.
)	1:04-CV-76-3(WLS)
v.)	
)	
TERRELL COUNTY, GEORGIA <i>et al.</i> ,)	
DEFENDANTS)	
)	
_____)	

PARTIES’ JOINT MOTION TO TERMINATE REMEDIAL ORDER AND MODIFIED ORDER AND FOR DISMISSAL

In accordance with ¶ J of the October 17, 2011 Modified Order (“Modified Order”) by this Court (ECF No. 115), the United States of America, Terrell County, Georgia, and the Terrell County Sheriff (collectively, the “Parties”) jointly move to terminate the Modified Order and the December 24, 2007 Remedial Order (ECF No. 82) governing conditions at the Terrell County Jail (“Jail”). The Parties also respectfully request that the Court dismiss this action. In support of their motion, the Parties state:

1. On October 3, 1994, the United States sent a letter to Terrell County, Georgia and the Terrell County Sheriff (“Defendants”) notifying them of its intention to investigate the Jail pursuant to the Civil Rights of Institutionalized Persons Act. 42 U.S.C. § 1997 (“CRIPA”). On June 1, 1995, the United States issued its findings letter that identified conditions at Jail that deprived inmates of rights, privileges or immunities protected by the Constitution. As these conditions remained unremedied and the Parties were unable to reach a settlement, the United States filed suit pursuant to CRIPA on June 7, 2004, alleging unconstitutional conditions due to

deficiencies in the areas of protection from harm, medical care, mental health care, environmental health and safety, and fire safety.

2. On November 14, 2005, the United States filed its Motion for Summary Judgment. On September 29, 2006, the Court granted summary judgment in favor of the United States and found “no genuine issue of material fact concerning whether the conditions at the Terrell County Jail are unconstitutional” and a “violation of the inmates’ rights to be free from serious risks of harm while incarcerated at the Terrell County Jail.” *United States v. Terrell County*, 457 F.Supp.2d 1359 (M.D. Ga. 2006) (ECF No. 63). The Court found that federal law required relief on all claims alleged in the United States’ complaint. *Id.* at 1368-69.

3. On December 24, 2007, the Court entered a Remedial Order, which covered: (1) correctional issues, including adequate staffing to ensure proper supervision of inmates to provide reasonable safety at the facility; (2) medical and mental health care; (3) suicide prevention; (4) quality assurance; (5) policies and procedures; and (6) providing a constitutionally sound facility to house inmates. The Remedial Order required Defendants to implement most of the necessary reforms within 180 days after the December 24, 2007 effective date.

4. On December 9, 2010, the United States filed for contempt. The United States alleged that Defendants had failed to achieve substantial compliance with fifty-five of the Remedial Order’s seventy-three substantive provisions and could not reach full and sustained compliance with the Remedial Order before its bright line termination date of December 21, 2010. Accordingly, the United States asked the Court find Defendants in civil contempt and amend the Remedial Order to: (1) replace the brightline expiration date with a provision requiring substantial compliance with all provisions of the Remedial Order; (2) require specific

performance of each provision of the Remedial Order within six months after entry of the amended order; and (3) require Defendants to operate the Jail with no fewer than twenty-two full-time, qualified Jailers to ensure adequate supervision and safety.

5. The Parties negotiated to resolve the United States' motion for contempt and jointly proposed the Modified Order to the Court. On October 17, 2011, the Court entered the Modified Order.

6. The Modified Order: (1) removed those provisions of the Remedial Order with which the Defendants had achieved substantial compliance; (2) retained provisions related to adequate staffing, medical and mental health care, and suicide prevention; (3) included a requirement that the Jail be operated and managed by no fewer than four qualified staff members per shift, stationed within the internal security perimeter of the Jail; and (4) replaced the brightline termination with a substantial compliance requirement (§ J).

7. Paragraph J of the Modified Order reads:

Consistent with the Prison Litigation Reform Act and federal law, the United States District Court for the Middle District of Georgia shall have continuing jurisdiction over enforcement of this Modified Order and the Remedial Order as modified by this Order until Defendants maintain substantial compliance with each and every term of the Modified Order for a period of six months, at which time both the Modified Order and Remedial Order shall terminate, and the case will be dismissed.

8. Following entry of the Modified Order, the Defendants made steady progress toward compliance. The United States received quarterly compliance reports from Defendants and monitored Defendants' compliance through review of those reports, supporting documentation, and a March 2013 compliance tour of the Jail. Increased staffing and stable management enabled the Sheriff to ensure adequate supervision at the Jail. The County entered into and maintained a contract with a private, regional provider for correctional medical and mental health

care. After consultation with the United States and its medical expert, the medical provider implemented appropriate policies, hired sufficient qualified staff, and began providing adequate and consistent care at the Jail.

9. The United States conducted its final compliance tour of the Jail in March of 2013, with an expert in correctional medical and mental health care. At that time, the United States found the Defendants in substantial compliance with all but a few select provisions related to medication administration and continuity. The United States continued to monitor compliance through document request and review.

10. On February 7, 2014, the United States sent a Response to Defendants' Eighth Compliance Report under the Modified Order. Based on the United States' review of the documents included with the Defendants' Eighth Compliance Report, the United States concluded that conditions at the Jail satisfy all requirements of the Modified Order, meaning the Defendants have achieved compliance with most, or all, components of each provision of the Modified Order, and have maintained such compliance for at least six months. Consistent with Paragraph J of the Modified Order, dismissal of the Remedial and Modified Orders – and the litigation – is now appropriate. .

WHEREFORE the Parties respectfully move that the Court enter the attached proposed order to terminate the Modified Order and Remedial Order and dismiss this case, with prejudice.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on July 11, 2014, I electronically filed the attached Joint Motion using the Court's CM/ECF system, which will send notification of such filing to all registered litigants.

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