

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 HARRISON COUNTY et al.;)
)
 Defendants)
)
 _____)

CIVIL ACTION NO: 1:95-cv-00005-WJG

MEMORANDUM IN SUPPORT OF JOINT MOTION FOR FINAL DISMISSAL

Plaintiff, the United States of America, and Defendants, Harrison County *et al.*, jointly move the Court to dismiss this case with prejudice, terminating the Consent Judgment (“Judgment”) entered on January 12, 1995 (Doc. 2). For the reasons stated below, the parties request that the Court grant their Joint Motion for Final Dismissal.

I. Background.

On January 6, 1995, the United States filed a Complaint (Doc. 1) pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. §1997. The United States alleged that conditions in the Harrison County Adult Detention Center (“HCADC”) violated the Constitution. More specifically, the United States alleged that Harrison County, and county officials in their official capacities, had failed to provide prisoners with adequate protection from harm, access to

the courts, medical care, and mental health care. The parties simultaneously submitted the proposed Consent Judgment with the Complaint. The Consent Judgment was then approved by the Court.

Over the next two decades, the parties worked together to resolve this matter, largely without any need to involve the Court.¹ The parties now agree that the Defendants have substantially complied with the terms and objectives of the Consent Judgment. They therefore move for final dismissal of this case.²

II. Discussion.

Paragraph 44 of the Judgment (“termination provision”) describes the mechanism for final dismissal. The Judgment’s termination provision states:

“The parties contemplate that at such time the Defendants have achieved substantial compliance with the terms and objectives of this Consent Decree, and have maintained such compliance for a sustained period of one year or more, the parties shall jointly move this Court to vacate this Decree and to terminate this Court’s jurisdiction over this action.”

Over the years, the Defendants have significantly improved prisoner safety and supervision, access to the courts, and medical and mental health care. See, e.g., Quarterly Report

¹ In 2003, the United States filed a Motion for Order to Show Cause (Doc. 15) for contempt, which was stayed after Defendants agreed to hire additional staff as requested by the United States. Minute Entry Order, March 25, 2004 (Doc. 58).

² The decision to modify or vacate a consent decree is at the Court’s discretion. See Frew v. Janek, 780 F.3d 320 (5th Cir. 2015) (affirming district court finding of substantial compliance based on the record and plaintiffs’ acknowledgements); see also Fed. R. Civ. P. 60(b)(5) (satisfaction of judgment as basis for relief); Prison Litigation Reform Act, 18 U.S.C. § 3626 (addressing termination where relief is no longer necessary to correct violation of a federal right).

to Department of Justice 4/30/15 (Doc. 142). The United States has confirmed implementation of required reforms and the adoption of its recommendations through on-site expert tours, document reviews, and staff and prisoner interviews. In recent years, the Defendants have also developed self-monitoring and quality assurance mechanisms, which have generated reports and other documents demonstrating compliance with the Judgment. Examples of improvements include – mandatory pre-service and in-service training for all detention officers; providing prisoners access to law materials; significantly increased physician, psychiatrist, and mental health staffing; the creation of a chronic care program that includes improved collaboration between security and medical staff, disease screening, and professional management of prisoners with chronic conditions; improved medication practices; suicide screening and mental health treatment under the direction of qualified personnel, including a psychiatrist; and implementation of new auditing and quality assurance mechanisms, such as a physician peer review process and chart reviews.

Many of the improvements, especially those regarding security practices and supervision of prisoners, have been in effect for a sustained period of time. A few, such as the physician peer review process and some changes to quality assurance procedures are more recent, but Defendants have demonstrated to the satisfaction of the United States that these improvements are sustainable and likely to continue. Moreover, as described in more detail in the Joint Motion, the Defendants have committed to maintaining and improving HCADC conditions.

III. Conclusion.

The parties therefore agree that the terms of the Judgment have been met. Accordingly, the parties respectfully move the Court to terminate its Judgment, dismissing this case with

prejudice, with the parties each bearing their own attorney fees and costs.

Respectfully submitted,

DATED this 11th day of August, 2015.

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