

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

AARON ISBY-ISRAEL,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 2:12-cv-00116-JMS-MJD
	)	
JAMES WYNN Director of classification in the	)	
IDOC,	)	
RICHARD BROWN Superintendent at W.V.C.F.,	)	
JACK HENDRIX Asst. Superintendent of	)	
W.V.C.F.,	)	
JERRY SNYDER unit Team Manager of	)	
W.V.C.F.,	)	
BEVERLY GILMORE Case Work Manager of	)	
W.V.C.F.,	)	
	)	
Defendants.	)	

**ENTRY APPROVING PROPOSED PLAN FOR INJUNCTIVE RELIEF
AND RETAINING JURISDICTION OVER ACTION**

In the Entry of December 19, 2018, the Court issued its Findings of Fact and Conclusions of Law after conducting a bench trial on September 25, and 26, 2018. Dkt. 274. The Court determined that the defendants willfully violated Mr. Isby's due process rights by failing to provide periodic, meaningful review of his long-term placement in solitary confinement. *Id.* In addition to awarding compensatory and punitive damages, the Court advised it would grant injunctive relief and directed Jack Hendrix, Executive Director of Classification, to submit a proposed plan by which Mr. Isby would be removed from department-wide or facility restrictive status housing. *Id.* The proposed plan was filed and Mr. Isby objected and has offered a counter-proposal. Dkt. 279, dkt. 288, dkt. 289, dkt. 290, dkt. 291.

Mr. Hendrix proposes that Mr. Isby be transferred to O housing unit at the New Castle Correctional Facility (“New Castle”), a general population unit that offers programs for inmates. Dkt. 279. There would be ten days of initial admission processing and orientation. *Id.* Mr. Isby would be admitted to the STAND (“Striving Toward a New Direction”) Program, a step-down program for inmates leaving restrictive status housing. *Id.* The STAND program at New Castle is run by the GEO Corporation, not the Indiana Department of Correction (“IDOC”). Dkt. 289.

Mr. Isby objects to Mr. Hendrix’s proposed plan on the basis that the completion of the STAND Program would provide opportunities for the defendants to block Mr. Isby’s release into general population. Dkt. 288 at 3, ¶ 7.¹ As noted above, however, the New Castle program is not managed by the IDOC. Moreover, O housing unit is a restricted movement unit in general population. Dkt. 288-1. Mr. Isby’s counter-proposal is that he be transferred to a restrictive movement unit at the Indiana State Prison, or any facility other than Wabash Valley Correctional Facility.

Having considered the parties’ proposals, the Court agrees with the defendants in finding that it lacks the authority to order the IDOC to transfer Mr. Isby to a particular prison of the Court’s choice or that of Mr. Isby. After finding that Mr. Isby’s due process were violated, the Court’s sole goal in awarding injunctive relief was to remove Mr. Isby from solitary confinement. Fashioning the injunctive relief for that violation, however, must accord prison administrators “wide-ranging deference in the adoption and execution of policies and practices that in their judgment are needed to preserve internal order and discipline and to maintain institutional security.” *Bell v. Wolfish*,

¹ The Court acknowledges Mr. Isby’s additional reasonable concern about the ACT program (part of the STAND program), having a Christian religious component. Dkt. 288, n. 2. He identifies as Hebrew Israelite. The testimony at trial, however, was that the ACT program did not have a religious component. The Court finds no basis on which to delve further into this issue at this time.

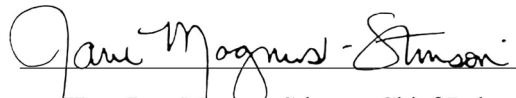
441 U.S. 520, 547 (1979). The Court must defer to the judgment of the IDOC in making that determination. Mr. Hendrix's proposal falls well within the discretion afforded prison administrators.

The Court shall **retain jurisdiction** over this action for a period of two years from the date of issuance of judgment to ensure that the defendants' placement decisions concerning Mr. Isby comport with due process.

Mr. Hendrix's proposed plan, dkt. 279, is **APPROVED**. Final judgment consistent with the Entry of December 19, 2018, dkt. 274, and this Entry shall now issue.

IT IS SO ORDERED.

Date: 3/4/2019


Hon. Jane Magnus-Stinson, Chief Judge
United States District Court
Southern District of Indiana

Distribution:

AARON ISBY-ISRAEL
892219
WESTVILLE - CF
WESTVILLE CORRECTIONAL FACILITY
Inmate Mail/Parcels
5501 South 1100 West
WESTVILLE, IN 46391

David A. Arthur
OFFICE OF THE ATTORNEY GENERAL
David.Arthur@atg.in.gov

Daniel R. Kelley
FAEGRE BAKER DANIELS LLP (Indianapolis)
daniel.kelley@faegrebd.com

Emily A. Kile-Maxwell
FAEGRE BAKER DANIELS LLP (Indianapolis)
emily.kilemaxwell@faegrebd.com

Jason Rauch
FAEGRE BAKER DANIELS LLP (Indianapolis)
jason.rauch@faegrebd.com