IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

CHARLES E. JOHNSON, et al.	:	
v.	:	Civil Action WMN-77-113 Civil Action WMN-78-1730
BISHOP L. ROBINSON, et al.	:	(consolidated with Civil Action WMN-77-116)
	:	

MEMORANDUM

During the course of the last year and a half, several motions have been filed in these consolidated actions responding to the shifting state of federal law as it relates to prisoner litigation. The most recent legislation, the Prison Litigation Reform Act of 1995 ["PLRA"] Pub. L. No. 104-134, 110 Stat 1321, §§ 801-810 (amending 18 U.S.C. § 3626) was signed into law by President Clinton on April 26, 1996. The following motions must be resolved in light of that new legislation: in Civil Action No. WMN-77-116 -- Plaintiffs' Motion to Enforce Judgment (Paper No. 461), Defendants' Motion to Vacate or Modify the Stipulation (Paper No. 467), and Plaintiffs' Motion for Summary Judgment (Paper No. 477); and in Civil Action WMN-77-113/Civil Action WMN 78-1730 -- Defendants' Motion to Terminate the Stipulated Agreements (Paper No. 498) and Plaintiffs' Motion for Evidentiary Hearing Pursuant to Section 3626(b)(3) of the Prison Litigation Reform Act and For Enforcement of the 1987 Stipulated Agreements with Respect to Health Care (Paper No. 502). After numerous extensions of time to allow the parties to respond to these various pleadings, all of these motions are now fully briefed. Upon a review of the motions and the applicable case law, the

Court determines that no hearing is necessary (Local Rule 105.6), and that in both actions, Plaintiffs' motions will be denied, and Defendants' motions will be granted.

I. BACKGROUND

A. Civil Action WMN-77-113/Civil Action WMN-78-1730

This litigation began in 1977 when a class of inmates at the Maryland House of Correction ["MHC"] sued the Maryland Department of Public Safety and Correctional Services and various State officials alleging that overcrowding in the facility constituted a violation of the Eighth Amendment to the United States Constitution. In 1978, a similar suit was filed challenging the conditions at the Maryland Correctional Institute at Hagerstown ["MCI-H"]. These suits were subsequently consolidated.

In 1983, the parties entered into a stipulated agreement providing for population caps and other procedures to address the conditions at both facilities. In 1987, Plaintiffs moved to modify that agreement. As the result of negotiations, the parties entered into a new stipulated agreement on July 8, 1987, resolving a majority of the claims raised by Plaintiffs. On December 3, 1987, the parties agreed to a supplemental stipulated agreement resolving the remaining issues. These agreements provided comprehensive prospective relief governing a broad spectrum of issues: population limitations, including limits on doublecelling and doublebunking; environmental conditions, including repair and replacement of windows, plumbing fixtures, painted surfaces, roofing, and ventilation systems; food

services; security; programming, including work, recreational, and educational programs; and health care. These agreements were approved by this Court and have been in force since February 19, 1988.

Defendants assert that under the terms of the PLRA they are entitled to the immediate termination of these consent decrees. Plaintiffs argue in response that, before the decrees can be terminated, Plaintiffs are entitled to an evidentiary hearing in order to determine whether there are "current and ongoing" constitutional violations warranting continued prospective relief. In the alternative, Plaintiffs challenge the constitutionality of the PLRA.

B. Civil Action No. 77-116

Plaintiffs in this action are prisoners and pre-trial detainees incarcerated at the Maryland Penitentiary, a state prison facility located in Baltimore. In November 1985, the parties entered into a stipulation that was subsequently approved by Judge Alexander Harvey II on March 10, 1986. Only two provisions of this Stipulation have continuing effect, a cap on the total number of prisoners that can be housed at the facility and a restriction on the double celling of inmates in segregation.

In October of 1995, Plaintiffs filed a motion to enforce judgment alleging that Defendants had violated the terms of the Stipulation by exceeding the population cap. In reaching this conclusion, Plaintiff included in their population count

prisoners housed in the Maryland Transition Services Center ["MTSC"], a new facility constructed on the site of one of the former housing wings of the Penitentiary complex. Defendants responded to that motion with a motion to vacate or modify the stipulation. Defendants argued that the MTSC was not a part of the Penitentiary, and thus, its inmates should not be included in determining if the population cap had been violated. In the alternative, Defendants argued that under former Section 3626 of 18 U.S.C,[1] the Stipulation must be reopened and modified to make it consistent with the current state of federal Eighth Amendment jurisprudence. On the day before President Clinton signed the PLRA into law, Plaintiffs filed a motion for summary judgment, attaching a report of the warden of the Penitentiary which Plaintiffs viewed as conclusive evidence that the MTSC was a part of the Penitentiary, and that accordingly, the Defendants were in violation of the Stipulation.

In response to the passage of the PLRA, Defendants supplemented their motion to vacate the Stipulation on October 15, 1996. Plaintiffs responded to this pleading by arguing that the PLRA was unconstitutional. As in the MHC/MIC-H litigation, Plaintiffs also argue that they should be given the opportunity to demonstrate a current and ongoing constitutional violation at the Penitentiary. Unlike the MHC/MIC-H Plaintiffs, however, the

---

[1] Section 20409(a) of the Violent Crime Control and Law Enforcement Act of 1994, P.L. 103-322, 108 Stat 1796, popularly known as the "Helms Amendment." This provision was repealed by the passage of the PLRA.

Penitentiary Plaintiffs do not state with any specificity what that violation might be.

II. DISCUSSION

A. The Prison Litigation Reform Act

In passing the PLRA, Congress sought to "provid[e] reasonable limits on the remedies available" in lawsuits concerning prison conditions. Plyler v. Moore, 100 F.3d 365 (4th Cir. 1996)(quoting H.R. Rep. No. 21, 104th Cong., 1st Sess. 7 (1995)). Consistent with those limitations, Congress determined that prospective relief in prisoner litigation should "extend no further than necessary to correct the violation of the Federal right of a particular plaintiff or plaintiffs." 18 U.S.C.A. § 3626(a)(1)(A). Congress also provided in the PLRA an avenue for states to end their obligations under existing consent decrees that exceeded those limitations:

> IMMEDIATE TERMINATION OF PROSPECTIVE RELIEF.--In any civil action with respect to prison conditions, a defendant or intervener 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 the Federal right, and is the least intrusive means necessary to correct the violation of the Federal right.

18 U.S.C.A. § 3626(b)(2).

The PLRA provides a limited exception to the immediate termination provision.

> (b)(3) LIMITATION -- Prospective relief shall

> not terminate if the court makes written findings based on the record that prospective relief remains necessary to correct a current or ongoing violation of the Federal right, extends no further than necessary to correct the violation of the federal right, and that the prospective relief is narrowly drawn and the least intrusive means to correct the violation.

18 U.S.C.A. § 3626(b)(3).

In passing the PLRA, Congress also sent a clear message that Courts are to determine as expeditiously as possible whether a consent decree must be terminated. The statute calls for the "immediate termination of prospective relief." Subsection (e)(1) of the statute mandates that courts "shall promptly rule on any motion to modify or terminate prospective relief in a civil action with respect to prison conditions." Furthermore, subsection (e)(2)(A)(I) provides that an automatic stay of prospective relief will take effect thirty days after any motion to terminate is filed.[2]

B. Civil Action WMN-77-113/Civil Action WMN-78-1730

In the MHC/MIC-H litigation, it is undisputed that there was no finding that the stipulated agreement represented a "narrowly drawn" or "least intrusive" means to address a constitutional violation. In approving the parties' agreement, the Court made

---

[2] Plaintiffs challenge the constitutionality of this automatic stay provision. In this action, however, the parties stipulated to briefing schedules that had the result that the stay under this provision went into effect before the motions were ripe for decision. Because the Court finds that the consent decrees must be terminated, it need not address the constitutionality of the automatic stay provision of 3626(e)(2)(A)(I).

no findings whatsoever. Defendants state explicitly in the stipulation that they are not admitting that any of the conditions complained of constituted a violation of the Constitution. Thus, the immediate termination provisions of § 3626(b)(2) are applicable.

The Court must then consider whether this case falls within the § 3626(b)(3) exception to the immediate termination provision. While apparently conceding that most of the terms in the consent decree are not constitutionally required and therefore must be terminated, Plaintiffs in their most recent pleadings have focused their attention on issues relating to health care delivery. Plaintiffs contend that this Court should allow limited discovery and hold an evidentiary hearing to determine whether the quality of health care provided at MHC and MCI-H is so deficient that at least those portions of the stipulated agreements relating to health care must remain in force in order to correct a current or ongoing constitutional violation.

Without resolving the question as to whether an evidentiary hearing is ever permitted or required in response to a § 3626(b)(2) motion to terminate, the Court finds that such a hearing is not called for in the instant action. In support of their motion for a hearing, Plaintiff submitted reports detailing specific incidents where the health care provided to inmates allegedly fell below that mandated under the stipulated agreements. Even should some of these incidents also rise to the

level of institutional "deliberate indifference" necessary to establish a constitutional violation, see Estelle v. Gamble, 429 U.S. 97, 104 (1976), the Court is still not convinced that these allegations warrant the broad system-wide prospective relief required under the stipulated agreements. As Defendants counter, these individual claims of denial of medical care can and should be addressed in suits for individual relief.

This conclusion is strengthened by a review of the record in this action. Plaintiffs' counsel have had liberal access to the institutions since the entry of the stipulated agreements. Monthly reports have been filed with the Court and, from time to time, Plaintiffs have brought specific concerns regarding Defendants' compliance with those agreement to this Court's attention. Most recently, on October 20, 1995, Plaintiffs filed a motion to compel compliance with the stipulated agreement related to the issue of doublebunking at MHC. Paper No. 461. Prior to that motion, on August 2, 1990, Plaintiffs filed a motion for an order to show cause why Defendants should not be held in contempt for failure to comply with the fire safety provisions of the stipulations. Paper No. 373. Despite their ongoing monitoring of the health care delivery systems at MHC and MCI-H, Plaintiffs have not, at least in recent years, filed any similar motions related to health care issues at these institutions.[3]

---

[3] In December 1992, Plaintiffs did file a motion to compel discovery of records relating to tuberculosis detection, control and treatment policies at MHC and MCI-H. Paper No. 415. The

C. Civil Action WMN-77-116

For similar reasons, the Court finds that the Stipulation in Civil Action WMN-77-116 must be vacated. As in the MHC/MCI-H litigation, it is undisputed that at the time the Stipulation was entered into, there was no finding by the Court that the relief was "narrowly drawn" or "the least intrusive" means to address a violation of a constitutional right. In the earlier round of pleadings, Plaintiffs in fact argued that the Stipulation was "premised on compromise between the parties." Paper No. 468 at 27.

Without pointing to any specific constitutional violation, Plaintiffs request that the Court delay terminating the Stipulation in order to give them the opportunity to develop a record of the current conditions at the Penitentiary. Plaintiffs concede that making such a record "would be a major undertaking, requiring considerable discovery and investigation." Paper No. 500 at 17. The Court finds this request to be inconsistent with the clear intent of Congress that, as a general rule, consent decrees be terminated as expeditiously as possible.

D. Constitutional Challenges

Turning to Plaintiffs' constitutional challenges, Plaintiffs acknowledge that most of their challenges have been undercut by the Fourth Circuit's recent decision in Plyler v. Moore, 100 F.3d 365 (1996). In Plyler, the Fourth Circuit considered and

---

Court granted that motion, in part, but heard nothing further from Plaintiffs on that issue.

rejected separation-of-powers, due process, and equal protection arguments aimed at the PLRA. To avoid the Fourth Circuit's conclusion that the PLRA is constitutional, Plaintiffs raise two additional arguments not directly addressed by the Fourth Circuit in Plyler.

Plaintiffs in the MHC/MCI-H litigation assert that the PLRA violates the Tenth Amendment. Plaintiffs argument, in brief, is that because the PLRA does not allow a court to approve a settlement in a prisoner lawsuit unless there is a finding that there was a constitutional violation, the law forces a state to either admit wrongdoing or to proceed to trial. Plaintiffs contend that this limitation of options impermissibly infringes on the States' sovereignty and independence. In so arguing, Plaintiffs rely primarily on New York v. United States, 505 U.S. 144 (1992), in which the Supreme Court stuck down a federal hazardous waste statute that forced states to either regulate wastes according to Congress's direction or to "take title" to the hazardous waste. The Supreme Court held that, because the "take title" provision effectively "commandeer[ed] the legislative process of the States by directly compelling them to enact and enforce a federal regulatory program," it "crossed the line distinguishing encouragement from coercion." Id. at 175, 176.

Initially, the Court notes its agreement with Defendants that it is somewhat ironic for Plaintiffs to argue that a statute that has the effect of terminating more than a decade of federal

court supervision over the administration of state prisons is somehow violative of the state sovereignty principles of the Tenth Amendment. Courts have frequently emphasized the opposite concern, i.e., that federal court supervision over state prisons creates the significant potential for encroachment upon state sovereignty. See, e.g., Torcasio v. Murray, 57 F.3d 1340, 1346 (4th Cir. 1995)("the unwillingness of federal courts to intrude into state prison management is . . . in significant measure motivated by the realization that principles of comity and federalism apply with special force in the context of correctional facilities"), cert. denied, 116 S. Ct. 772 (1996). The irony of Plaintiffs' argument is underscored by the fact that it is the Plaintiffs complaining about the loss of state sovereignty, and not the State.

In addition to this conceptual flaw in Plaintiffs' argument, the Court finds New York v. United States inapplicable to the PLRA on other grounds. The statute does not, as Plaintiffs contend, prevent the state from settling prisoner litigation. The PLRA specifically provides that states may enter into private settlement agreements that do not comply with the limitations of § 3626(a).[4] In addition, the statute allows parties to seek appropriate relief in state courts should a settlement agreement

---

[4] See § 3626(c)(2)(A)("Nothing in this section shall preclude parties from entering into a private settlement agreement that does not comply with the limitations on relief set forth in subsection (a), if the terms of that agreement are not subject to court enforcement other than the reinstatement of the civil proceeding that the agreement settled.").

be entered into, but then breached.[5] The only limitation imposed by the statute, albeit a significant limitation, is the prevention of the parties from enlisting the federal courts in enforcing an agreement that goes beyond what is constitutionally required of the state. While it may be more difficult to settle prison litigation in this new environment, the Court is not convinced that the option is so completely eliminated so as to implicate the concerns of New York v. United States.

In the Maryland Penitentiary litigation, Plaintiffs advance a variation of the separation-of-powers argument different from that which was raised and rejected in Plyler. Plaintiffs allege that "the termination provisions of the PLRA effectively strip Article III courts of their inherent power to impose effective remedial measures in constitutional cases that come before them." Paper No. 500 at 6. The short answer to Plaintiffs' argument is that the PLRA imposes no such restriction. The PLRA expressly provides that federal district court shall have and shall exercise jurisdiction where the record evinces a constitutional violation. 18 U.S.C.A. § 3626(b)(3); Benjamin v. Jacobson, 935 F. Supp. 332, 351 (S.D.N.Y. 1996)("The Court need not enter the extensive academic debate surrounding the power of Congress to control the jurisdiction of the district courts, however, because it is clear that §3626(b) . . . preserves the Court's ability to

---

[5] See § 3626(c)(2)(B) ("Nothing in this section shall preclude any party claiming that a private settlement agreement has been breached from seeking in State court any remedy available under State law.")

enforce constitutional rights.").

IV. CONCLUSION

For all of the above-stated reasons, the Court finds that the PLRA is constitutional and that, as applied to the instant litigation, requires the immediate termination of the consent decrees and stipulations that have been previously approved by this Court. A separate order will issue.

William M. Nickerson
United States District Judge

Dated: February 26 1997.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

CHARLES E. JOHNSON, et al.	:	
v.	:	Civil Action WMN-77-113 Civil Action WMN-78-1730
BISHOP L. ROBINSON, et al.	:	(consolidated with Civil Action WMN-77-116)
	:	

ORDER

In accordance with the foregoing Memorandum and for the reasons stated therein, IT IS this 26th day of February, 1997, by the United States District Court for the District of Maryland, ORDERED:

1. That Defendants' Motion to Vacate or Modify the Stipulation (Paper No. 467) is GRANTED;

2. That Plaintiffs' Motion to Enforce Judgment (Paper No. 461) is DENIED;

3. That Plaintiffs' Motion for Summary Judgment (Paper No. 477) is DENIED;

4. That Defendants' Motion to Terminate the Stipulated Agreements (Paper No. 498) is GRANTED;

5. That Plaintiffs' Motion for Evidentiary Hearing Pursuant to Section 3626(b)(3) of the Prison Litigation Reform Act and For Enforcement of the 1987 Stipulated Agreements with Respect to Health Care (Paper No. 502) is DENIED; and

6. That the Clerk of the Court shall mail copies of the foregoing Memorandum and this Order to all counsel of record.

William M. Nickerson
United States District Judge