

James COOPER, et al., Plaintiffs-Appellees,

v.

**W.B. "Billy" NOBLE, Sheriff of Madison County, et al., Defendants,
Jessie Hopkins, Sheriff of Madison County, Robert J. Dowdle, Marcus Sharpe, David H.
Richardson, Karl M. Banks & J.L. McCullough, Members of the Madison County Board of
Supervisors, Defendants-Appellants.**

No. 93-7678.

United States Court of Appeals, Fifth Circuit.

December 15, 1994.

Rebecca Cowan, C.R. Montgomery, Montgomery, Smith-Vaniz & McGraw, Jackson, MS, for appellants.

Tara Walker, Lindia Pilcher Robinson, Ronald Reid Welch, Terry Wallace, Jackson, MS, for appellees.

Before WIENER, EMILIO M. GARZA, and BENAVIDES, Circuit Judges.

EMILIO M. GARZA, Circuit Judge:

We supplement our prior opinion, see Cooper v. Noble, 33 F.3d 540 (5th Cir.1994), as follows:

The Violent Crime Control and Law Enforcement Act of 1994 ("the Act"), P.L. 103-322, 108 Stat. 1796, effective September 13, 1994, provides for periodic reopening "at the behest of a defendant" of court orders or consent decrees seeking to remedy prison or jail crowding that violates the Eighth Amendment. *Id.* § 20409(a) (codified at 18 U.S.C. § 3626(c)). The Act applies to all outstanding court orders on the date of its enactment. *Id.* § 20409(b).

No issue pertaining to the Act was brought before us; the defendants did not, pursuant to the Act, request a reopening; and, finally, the District Court proceedings reviewed in this appeal were conducted prior to September 13, 1994. Accordingly, the provisions of the Act are not applicable to our determination of the instant appeal.

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