

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Court
Southern District of Texas
FILED

MAR 25 1996

Michael A. Anby, Clerk of Court

DAVID RUIZ, et al.,
Plaintiffs,

UNITED STATES OF AMERICA,
Plaintiff-Intervenor,

V.

WAYNE SCOTT, et al.,
Defendants.

2025 2024 2023 2022 2021 2020 2019 2018 2017 2016 2015 2014 2013 2012 2011 2010 2009 2008 2007 2006 2005 2004 2003 2002 2001 2000 1999 1998 1997 1996 1995 1994 1993 1992 1991 1990 1989 1988 1987 1986 1985 1984 1983 1982 1981 1980 1979 1978 1977 1976 1975 1974 1973 1972 1971 1970 1969 1968 1967 1966 1965 1964 1963 1962 1961 1960 1959 1958 1957 1956 1955 1954 1953 1952 1951 1950 1949 1948 1947 1946 1945 1944 1943 1942 1941 1940 1939 1938 1937 1936 1935 1934 1933 1932 1931 1930 1929 1928 1927 1926 1925 1924 1923 1922 1921 1920 1919 1918 1917 1916 1915 1914 1913 1912 1911 1910 1909 1908 1907 1906 1905 1904 1903 1902 1901 1900 1899 1898 1897 1896 1895 1894 1893 1892 1891 1890 1889 1888 1887 1886 1885 1884 1883 1882 1881 1880 1879 1878 1877 1876 1875 1874 1873 1872 1871 1870 1869 1868 1867 1866 1865 1864 1863 1862 1861 1860 1859 1858 1857 1856 1855 1854 1853 1852 1851 1850 1849 1848 1847 1846 1845 1844 1843 1842 1841 1840 1839 1838 1837 1836 1835 1834 1833 1832 1831 1830 1829 1828 1827 1826 1825 1824 1823 1822 1821 1820 1819 1818 1817 1816 1815 1814 1813 1812 1811 1810 1809 1808 1807 1806 1805 1804 1803 1802 1801 1800 1799 1798 1797 1796 1795 1794 1793 1792 1791 1790 1789 1788 1787 1786 1785 1784 1783 1782 1781 1780 1779 1778 1777 1776 1775 1774 1773 1772 1771 1770 1769 1768 1767 1766 1765 1764 1763 1762 1761 1760 1759 1758 1757 1756 1755 1754 1753 1752 1751 1750 1749 1748 1747 1746 1745 1744 1743 1742 1741 1740 1739 1738 1737 1736 1735 1734 1733 1732 1731 1730 1729 1728 1727 1726 1725 1724 1723 1722 1721 1720 1719 1718 1717 1716 1715 1714 1713 1712 1711 1710 1709 1708 1707 1706 1705 1704 1703 1702 1701 1700 1699 1698 1697 1696 1695 1694 1693 1692 1691 1690 1689 1688 1687 1686 1685 1684 1683 1682 1681 1680 1679 1678 1677 1676 1675 1674 1673 1672 1671 1670 1669 1668 1667 1666 1665 1664 1663 1662 1661 1660 1659 1658 1657 1656 1655 1654 1653 1652 1651 1650 1649 1648 1647 1646 1645 1644 1643 1642 1641 1640 1639 1638 1637 1636 1635 1634 1633 1632 1631 1630 1629 1628 1627 1626 1625 1624 1623 1622 1621 1620 1619 1618 1617 1616 1615 1614 1613 1612 1611 1610 1609 1608 1607 1606 1605 1604 1603 1602 1601 1600 1599 1598 1597 1596 1595 1594 1593 1592 1591 1590 1589 1588 1587 1586 1585 1584 1583 1582 1581 1580 1579 1578 1577 1576 1575 1574 1573 1572 1571 1570 1569 1568 1567 1566 1565 1564 1563 1562 1561 1560 1559 1558 1557 1556 1555 1554 1553 1552 1551 1550 1549 1548 1547 1546 1545 1544 1543 1542 1541 1540 1539 1538 1537 1536 1535 1534 1533 1532 1531 1530 1529 1528 1527 1526 1525 1524 1523 1522 1521 1520 1519 1518 1517 1516 1515 1514 1513 1512 1511 1510 1509 1508 1507 1506 1505 1504 1503 1502 1501 1500 1499 1498 1497 1496 1495 1494 1493 1492 1491 1490 1489 1488 1487 1486 1485 1484 1483 1482 1481 1480 1479 1478 1477 1476 1475 1474 1473 1472 1471 1470 1469 1468 1467 1466 1465 1464 1463 1462 1461 1460 1459 1458 1457 1456 1455 1454 1453 1452 1451 1450 1449 1448 1447 1446 1445 1444 1443 1442 1441 1440 1439 1438 1437 1436 1435 1434 1433 1432 1431 1430 1429 1428 1427 1426 1425 1424 1423 1422 1421 1420 1419 1418 1417 1416 1415 1414 1413 1412 1411 1410 1409 1408 1407 1406 1405 1404 1403 1402 1401 1400 1399 1398 1397 1396 1395 1394 1393 1392 1391 1390 1389 1388 1387 1386 1385 1384 1383 1382 1381 1380 1379 1378 1377 1376 1375 1374 1373 1372 1371 1370 1369 1368 1367 1366 1365 1364 1363 1362 1361 1360 1359 1358 1357 1356 1355 1354 1353 1352 1351 1350 1349 1348 1347 1346 1345 1344 1343 1342 1341 1340 1339 1338 1337 1336 1335 1334 1333 1332 1331 1330 1329 1328 1327 1326 1325 1324 1323 1322 1321 1320 1319 1318 1317 1316 1315 1314 1313 1312 1311 1310 1309 1308 1307 1306 1305 1304 1303 1302 1301 1300 1299 1298 1297 1296 1295 1294 1293 1292 1291 1290 1289 1288 1287 1286 1285 1284 1283 1282 1281 1280 1279 1278 1277 1276 1275 1274 1273 1272 1271 1270 1269 1268 1267 1266 1265 1264 1263 1262 1261 1260 1259 1258 1257 1256 1255 1254 1253 1252 1251 1250 1249 1248 1247 1246 1245 1244 1243 1242 1241 1240 1239 1238 1237 1236 1235 1234 1233 1232 1231 1230 1229 1228 1227 1226 1225 1224 1223 1222 1221 1220 1219 1218 1217 1216 1215 1214 1213 1212 1211 1210 1209 1208 1207

Civil Action No. H-78-987

MOTION TO VACATE FINAL JUDGMENT

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME defendants in the above referenced cause of action, by and through Attorney General Dan Morales, and file their motion to vacate the final judgment in this matter pursuant to FED. R. CIV. P. 60(b)(5). In support thereof, defendants would show the following:

I.

BACKGROUND

It has been over twenty years since David Ruiz filed his petition in 1972, complaining of conditions in the state prison system. The current prison system bears little resemblance to that which this Court once determined violated the United States Constitution. Since 1972, the State has transformed its prison system into one of the best-administered, most modern systems in the United States. It has also become one of the largest prison systems in the country. In the last few years, the State has embarked

upon, and has completed, perhaps the largest prison construction effort in the history of the free world. Consequently, our state's county jail backlog has been eliminated and, for the first time in many years, the prison system has no crowding problem with which to contend. Most importantly, the State has achieved all of these accomplishments while maintaining a prison environment that comports with the U.S. Constitution.

On December 11, 1992, the parties in this case proposed, and the Court adopted, an agreed final judgment that (1) returned day-to-day operational control of our state prison system to state officials and (2) brought two decades of litigation to an end.

The final judgment expressly vacated all previously-issued court orders, decrees, stipulations, reporting, and other requirements dealing with prison administration, including capacity, construction, feeding and clothing of the inmates, access to medical care, programmatic and educational opportunities, inmate security, staffing levels, inmate classification, solitary confinement, work conditions, use of force, maintenance of facilities, visitation, monitoring and reporting requirements, treatment of mentally-retarded inmates, emergency procedures, and many others. More specifically, the final judgment eliminated the 1985 Consent Decree and:

- (1) eliminated the court-imposed 95% population cap;
- (2) eliminated all specific requirements regarding the construction, configuration, and design of new prisons;
- (3) eliminated all specific space requirements (e.g., square footage per inmate);

- (4) eliminated all specific requirements regarding recreational and programmatic activity;
- (5) eliminated all specific requirements regarding staffing ratios;
- (6) eliminated all prohibitions against the use of acquired facilities, such as abandoned military bases, industrial sites, warehouses, etc.; and,
- (7) eliminated all prohibitions against the use of tents for programs such as work camps and boot camps.

Now, three years after the final judgment was entered, during which time the state has demonstrated a strong and continuing commitment to maintain a constitutional prison system, the state petitions this Court to vacate the final judgment.

II.

JUSTIFICATION FOR MOTION TO VACATE FINAL JUDGMENT

The Defendants base their Motion to vacate the final judgment upon the following factors:

- (1) Unconstitutional prison overcrowding, the overriding concern throughout the two decades of the *Ruiz* litigation, has been eliminated. The Final Judgment vacated all specific building limitations and requirements, and allowed prison construction to proceed unimpeded by court-imposed capacity limits. Freed from explicit building restrictions and prison population caps, Texas has embarked, in the last three years, upon perhaps the largest prison construction effort ever before seen, anywhere in the world. As a result, Texas' chronic prison overcrowding crisis has been resolved.



Currently, the state prison system has a capacity of almost 150,000 beds, which includes beds available but not used. In other words, the number of beds available today exceeds the current demand for beds. The county jail felony backlog has been eradicated, due to the unprecedented expansion of the state prison system, thus relieving intake pressure on the prison system. In 1995, the Texas Legislature provided for even more expansion of available beds in the prison system. The State of Texas and the defendants in this case have a vested interest, through compliance with state law and their own policies and procedures, in maintaining constitutional conditions in the prison system.

(2) The last three years have demonstrated the commitment of the Texas Department of Criminal Justice and of the State of Texas to the continued operation of a prison system that complies with the mandates of the United States Constitution. The defendants have satisfied all that has been required of them. Since the Final Judgment was entered in this case, the Court has received numerous prisoner complaints. Each inmate complaint received by the Court has been reviewed and only a very few of that number were referred to the Texas Department of Criminal Justice by the Court for investigation. The limited number of investigations which the Court requested the Department to undertake concluded that none of these complaints were credible, and have reaffirmed the defendants' demonstrable continuing commitment to operating a constitutional prison system. In effect, through this court's complaint review process, the State of Texas has proven that it operates a constitutional prison system. The Court, through its review of inmate complaints, has been presented with numerous opportunities to ascertain the constitutionality of the prison system. That process has allowed this

Court to affirm and reaffirm that the day-to-day operation of the Texas prison system is being conducted in a constitutional manner.

(3) Present case law speaks explicitly and directly to the proper relationship between the federal courts and the states in cases involving public institutional litigation. This compelling precedent establishes the principle that once a state has effected a remedy that cures a constitutional violation, the federal courts are bound to vacate a final judgment.

The defendants, the prison system, and the legislature have acted upon their commitment to ensure the constitutionality of prison operations. The remedy has been effected. That which was necessary and right has now been accomplished. The Defendants currently operate a constitutional prison system and the State has taken substantial steps to ensure its continuing commitment to such an operation, moving beyond the bare requirements with strong legislation to provide for future compliance with the Constitution in the various aspects of prison management.

The state acknowledges that no practical effect would be felt by the vacating of the Final Judgment: Texas prisons would operate without the Final Judgment as they operate today. This motion is not predicated upon the state's present desire or intent to alter any aspect of prison administration. Indeed, we can fathom no prison policy or practice which the state would desire to employ which is in any way impeded by the Final Judgment. This fact notwithstanding, objective analysis of the history of this litigation, the efforts and resources invested by the state during the past twenty (20) years,

and Texas' demonstrable commitment to constitutional compliance, leads to one unavoidable conclusion: Texas merits and deserves to have the Final Judgment vacated.

The Final Judgment afforded the State an expeditious and cost effective way to resolve this two-decades-long litigation and it returned control of the prison system to the State. The goals and objectives of the Final Judgment have now been accomplished; there is neither reason nor justification for its continued existence.

III.

THE LEGAL STANDARD

The defendants have fulfilled the two requirements necessary for this Court to vacate the Final Judgment: the prison system is operating in compliance with the Constitution and the prison system is unlikely to return to its former ways. *Board of Educ. of Oklahoma City Pub. Sch. v. Dowell*, 498 U.S. 237, 247, 249-50 (1991).

Rutz has precipitated institutional changes within the Texas Department of Criminal Justice that ensure that state prisons will continue to be operated in compliance with the Constitution. Moreover, the Texas legislature has passed many statutory provisions that also ensure that the state's prison system operates in a constitutional manner.¹ Both the legislative and executive branches of state government devote

¹ TEX. GOV'T CODE

Chapter 491. Texas Board of Criminal Justice, Texas Department of Criminal Justice: General Provisions.

Chapter 492. Texas Board of Criminal Justice: General Duties; Membership.

Chapter 493. Texas Department of Criminal Justice: Organization.

Chapter 494. Institutional Division: Policy, Director, and Staff.

Chapter 495. Institutional Division: Contracts for Correctional Facilities and Services

Chapter 496. Institutional Division: Land and Property.

Chapter 497. Institutional Division: Industry and Agriculture; Labor of Inmates.

Chapter 498. Inmate Classification and Good Time.

Chapter 499. Institutional Division: Population Management; Special Programs

Chapter 500. Institutional Division: Miscellaneous Disciplinary Matters.

enormous time, attention, and resources to the prison system. In short, the State has remedied all past Constitutional violations.

Our federal Constitution is grounded in the tradition that the various states retain autonomy over the exercise of their executive, legislative, and judicial powers. Recognized as federalism, this concept dictates that a federal court's control over state institutions must not extend beyond the time required to remedy the effects of past constitutional violations. *Board of Educ. of Oklahoma City Pub. Sch. v. Dowell*, 498 U.S. 237, 247 (1991). Final judgments, such as the one in this case, are "not intended to operate in perpetuity." *Id.*, 498 U.S. at 248. A federal court must "provide an orderly means for withdrawing from control when it is shown that the [prison system] has attained the requisite degree of compliance." *Freeman v. Pitts*, 112 S. Ct. 1430, 1445 (1992). See also *Sandin v. Conner*, 115 S. Ct. 2293 (1995) (stating that "federal courts ought to afford appropriate deference and flexibility to state officials trying to manage a volatile environment"). A federal court has a duty to return complete operation and control of state institutions to state authorities once the initial constitutional violation has been remedied. *Freeman*, 115 S. Ct. at 1445. These principles apply in all circumstances where parties seek federal court control over those in charge of state or local governments. *Rizzo v. Goode*, 423 U.S. 362, 380 (1976). The Final Judgment in this

Chapter 501. Institutional Division: Inmate Welfare.
Chapter 507. State Jail Felony Facilities

TEX. PENAL CODE

Chapter 12, section 12.35. State Jail Felony Punishment

TEX. CODE OF CRIM. PROC.

Art. 42.12, section 15. Community Supervision



case has been an appropriate means to the ultimate end: restoring control of the state prisons to the State of Texas and its citizens.²

In *Taylor v. Sterrett*, 600 F.2d 1135 (5th Cir. 1979), an Eighth Amendment county jail conditions case, the Fifth Circuit Court of Appeals ordered the district court to dismiss the case because "that which was sought to be remedied has been remedied." *Id.* One of the reasons that the Fifth Circuit Court used for dismissing the case was the fact that during the pendency of the litigation, the State of Texas had created the Texas Commission on Jail Standards, which was to enforce a state policy "that all county jail facilities . . . conform to certain minimum standards of construction, maintenance, and operation." *Taylor*, 600 F.2d at 1142. Furthermore, the county jail at the time had significant excess capacity and county voters had just passed a major bond issue to finance construction of a new jail. *Id.* at 1141. Thus, the Fifth Circuit found that the county not only stood in substantial compliance with the various court orders and the 1972 consent decree, but that the former conditions were unlikely to recur: "The establishment of [the Texas Commission on Jail Standards] indicates a strong state commitment to improving conditions at those jails," the Fifth Circuit Court explained. *Taylor*, 600 F.2d at 1145. The Texas prison system stands in similar posture here. In the

² Federalism also impels Congressional efforts such as the 1994 Crime Bill which emphasizes the need to review federal court control of state prisons. 18 U.S.C. § 3626(e). This legislation provides that federal courts must reopen orders and decrees for modification every two years in prisoner cases claiming violations of the Eighth Amendment. Although this provision appears to be aimed at those states still laboring under the direction of a court-appointed master or monitor, nonetheless, it recognizes the need for periodic review of continuing federal court jurisdiction over state prisons. The Congress currently is considering an amendment to § 3626 which would automatically terminate all continuing federal court jurisdiction of state prisons after two years. S. 400, 104th Cong. 1st Sess (1995) (Stop Turning Out Prisoners Act).

(X)

face of this Court's specific findings of constitutional violations, the Texas Legislature substantially revised statutory authority over the operation of the state criminal justice system in the Texas Government Code.³ This, like the legislation cited in *Taylor*, indicates the strong commitment by the State of Texas to ensuring constitutional standards at the state prison system.

Moreover, the majority of the claims in this case involved the Eighth Amendment's prohibition against cruel and unusual punishments. The Eighth Amendment requires that prisoners be provided basic human needs, such as food, clothing, housing, medical care, and reasonable safety, as seen through the prism of evolving standards of decency. *Rhodes v. Chapman*, 452 U.S. 337 (1981) and *Helling v. McKinney*, 113 S. Ct. 2475, 2480 (1993). The Texas prison system provides these needs to its inmates as a matter of course, and has done so for some time now.

Defendants' compliance with the Final Judgment, the public's interest and the State of Texas' desire to exercise autonomy over its institutions, mandate that any remaining vestiges of court involvement--however passive--with the prison system, now be vacated. In the face of the commitment of the defendants, the State and its agencies, and the legislature to continuing a constitutional prison system, the defendants submit that the time to vacate the final judgment is now at hand.

ACCORDINGLY, the defendants pray that the foregoing motion be granted and that the final judgment be vacated.


³See, Footnote 1, *supra*.

(X)

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I forwarded a copy of the foregoing document by first class U.S. mail, postage prepaid, to Vincent M. Nathan, Special Master, 644 Spitzer Building, 520 Madison Ave., Toledo, Ohio 43604-1307, on this 25th day of March, 1996.


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