

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 12-22958-CIV-SEITZ/TURNOFF

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SECRETARY, FLORIDA DEPARTMENT OF
CORRECTIONS, *et al.*,

Defendants.

ORDER DENYING MOTION TO STAY

THIS MATTER is before the Court on the Defendants' Renewed Motion for Partial Stay of the Court's July 1, 2014 Implementation Date [DE-305]. Defendants previously filed an Amended Motion for Partial Stay [DE-260] that sought a stay of the July 1, 2014 implementation deadline in favor of a quarterly phase-in starting in October 2014 and culminating on July 1, 2015. At a hearing on the Amended Motion, the Court told the parties that it did not have jurisdiction to issue an order staying the July 1, 2014 deadline and ordering the quarterly phase-in because the Preliminary Injunction containing the July 1, 2014 deadline is currently on appeal to the Eleventh Circuit. Thus, Defendants current motion no longer seeks an order addressing the quarterly phase-in.

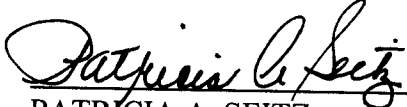
At the hearing and in its order denying the Amended Motion to Stay, the Court ordered the parties to file a motion for partial remand with the Eleventh Circuit because a partial remand would allow the Court to modify the July 1, 2014 implementation date in the Preliminary Injunction to permit a quarterly phase-in. The Defendants' Renewed Motion states that Defendants will not seek the partial remand and, instead, seeks only the entry of a stay of the

implementation deadline, without a modification of the implementation deadline. However, the Court will not simply enter a stay of the implementation deadline because it cannot rely on Defendants' representations that it will continue to implement its religious diet program in a timely fashion. At the Preliminary Injunction hearing, Defendants' witnesses testified that the Defendants had every intention to have a statewide religious meals program by September or October 2013, while others stated that the program would be statewide by the beginning of 2014. Despite these representations, only one correctional facility had implemented a religious diet program by the beginning of 2014 and that facility had been ordered to do so by the Eleventh Circuit in a separate case. Despite the impending July 1, 2014 deadline for statewide implementation, Defendants have implemented the religious diet program at only a handful of facilities, leaving 51 institutions and associated facilities remaining to implement the religious diet program.

The Court has previously represented to the parties that it is willing to modify the implementation deadline but cannot do so without a partial remand from the Eleventh Circuit. Defendants have declined to seek such a remand. Consequently, it is

ORDERED that Defendants' Renewed Motion for Partial Stay of the Court's July 1, 2014 Implementation Date [DE-305] is DENIED.

DONE and ORDERED in Miami, Florida, this 11th day of June, 2014.



PATRICIA A. SEITZ
UNITED STATES DISTRICT JUDGE

cc: All Counsel of Record