

91 F.3d 145

Unpublished Disposition

NOTICE: THIS IS AN UNPUBLISHED OPINION.

(The Court's decision is referenced in a "Table of Decisions Without Reported Opinions" appearing in the Federal Reporter. Use FI CTA6 Rule 28 and FI CTA6 IOP 206 for rules regarding the citation of unpublished opinions.)

United States Court of Appeals, Sixth Circuit.

UNITED STATES of America, Plaintiff-Appellee,

v.

STATE OF MICHIGAN, Defendant-Appellant.

No. 90-1701. | July 3, 1996.

W.D. Mich., No. 84-00063; Richard A. Enslen, Chief Judge.

W.D.Mich.

REMANDED.

Before: GUY, RYAN, and SUHRHEINRICH, Circuit Judges.

Opinion

ORDER

*1 The State of Michigan appeals the May 1, 1990 order addressing issues of compliance with a consent decree entered in this action filed by the government to required the State to bring the conditions at several Michigan prisons up to constitutional standards. The State now moves for immediate termination of the order pursuant to the recent amendments to 18 U.S.C. § 3626 set forth in section 802 of the Prison Litigation Reform Act. The government responds to the motion by requesting that the appeal be remanded to the district court.

The amended statute provides that

[i]n any civil action with respect to prison conditions, a defendant or intervenor 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. § 3626(b)(2). It is undisputed that the May 1, 1990 order does not contain the findings required by this section of the Act. However, whether the statute requires the immediate termination of the order is more properly addressed in the first instance by the district court.

It therefore is ORDERED that the motion for immediate termination be denied. The appeal is remanded to the district court for reconsideration in light of the recent amendments to 18 U.S.C. § 3626.

Parallel Citations

1996 WL 382238 (C.A.6 (Mich.))