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

David Ruiz, *et al.*,  
Plaintiffs,

v.

Gary Johnson, Director TDCJ-ID, *et al.*,  
Defendants.

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Civil Action No. H-78-987

ORDER

Founded on the findings of fact and conclusions of law contained in the memorandum opinion filed simultaneously herewith, it is **ADJUDGED** that both of the termination provisions of the Prison Litigation Reform Act (PLRA), 18 U.S.C. § 3626, if applied retroactively to the 1992 Final Judgment in this civil action, violate the separation of powers doctrine and the due process clause of the Constitution of the United States. Furthermore, it is **ADJUDGED** that the systemic conditions of confinement in administrative segregation, failure to provide reasonable safety for assaulted and abused inmates, and excessive use of force by correctional officers in Texas prisons violate the Constitution of the United States.

Accordingly, defendants' two pending motions to terminate the 1992 Final Judgment, should be, and are hereby, **DENIED**.

As the 1992 Final Judgment remains in effect, it is found that defendants are in violation of that consent decree in the respects mentioned above. As in the original trial of this civil

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action, the parties will be given an opportunity to attempt to reach agreement on a proposed form of judgment which should include specific plans for remedying unconstitutional conditions and practices in TDCJ. The parties will have three months to negotiate such a resolution and present it to the court. Accordingly, it is further

**ORDERED** that parties produce such an agreement, or notify the court of their inability to do so, no later than June 1, 1999. If the parties are unable to agree, the court will thereupon enter its own order.

Jurisdiction of this civil action will be retained, until such time as the court determines that full and complete relief from these constitutional violations has been obtained for the plaintiff class. Nothing in the memorandum opinion or this order should be construed as terminating this court's judgment of January 10, 1983, regarding attorneys fees and costs.

It is so **ORDERED**.

**SIGNED**, this 1<sup>st</sup> day of March, 1999.

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William Wayne Justice  
Senior United States District Judge

If, on appeal, it is adjudged that the PLRA is constitutional, then the following, alternative order is entered:

#### **ALTERNATIVE ORDER**

Based on the findings of fact and conclusions of law relating to the constitutional violations set forth hereafter, which are contained in the memorandum opinion of the court entered contemporaneously herewith, and in conformity with the provisions of the Prison

Litigation Reform Act (PLRA), 18 U.S.C. § 3626, it is **ADJUDGED** that ongoing, systemic violations of the federal rights of the plaintiff class are in operation in the Texas Department of Criminal Justice—Institutional Division. Specifically, systemic constitutional violations have been found in the conditions of confinement in administrative segregation, in the failure to provide reasonable safety for assaulted and abused inmates, and in the excessive use of force by correctional officers in Texas prisons. It is further

**ADJUDGED** that the PLRA renders inoperative certain sections of the Final Judgment entered herein in 1992, namely, those sections pertaining to access to courts, health services, and death row.

The parties will be given an opportunity to attempt to reach agreement on a proposed form of judgment which should include specific plans for remedying the unconstitutional conditions and practices in TDCJ alluded to above. The parties will have three months to stipulate to such a resolution and present it to the court. If it is approved and adopted by the court, injunctive relief will be entered to remedy the violations of the federal rights of the plaintiff class. If the parties are unable to reach agreement for the resolution of this matter, or if the court does not approve of such resolution, then the court will enter its own decree. Any such relief shall be narrowly drawn, extend no further than necessary to correct the constitutional violations here at issue, and be the least intrusive means necessary to correct such violations. Accordingly, it should be, and is hereby,

**ORDERED** that parties produce such an agreement, or notify the court of their inability to do so, not later than June 1, 1999.

Jurisdiction of this civil action will be retained, until such time as the court determines that full and complete relief from these constitutional violations has been obtained for the

plaintiff class. Nothing in the memorandum opinion or this order should be construed as terminating this court's judgment of January 10, 1983, regarding attorneys fees and costs. Further, the order entered herewith is found to be narrowly drawn, to extend no further than necessary to correct the constitutional violations here at issue, and to be the least intrusive means necessary to correct such violations.

It is so **ORDERED**.

**SIGNED**, this 1<sup>st</sup> day of March, 1999.

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William Wayne Justice  
Senior United States District Judge