UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

PEDERSON, et al.,

Plaintiff,

v.

COUNTY OF PLUMAS, et al.,

Defendants.

No. 2: 89-cv-1659 KJN P

ORDER

On February 2, 2017, a hearing was held before the undersigned regarding plaintiffs' motion to enforce the judgment (ECF No. 79) and defendants' motion to modify the consent decree (ECF No. 81.) At this hearing, the parties and the undersigned also addressed outstanding issues raised in the joint status report filed January 19, 2017. (ECF No. 82.)

At the hearing, Paul Comiskey and Mohammad Tajsar appeared on behalf of plaintiffs. R. Craig Settlemire appeared on behalf of defendants.

Joint Status Report

The joint status report addressed the issues of medical care, exercise, staffing, mental health care and the law library.

As discussed at the February 2, 2017 hearing, on or before March 16, 2017, defendants shall file a status report addressing the status of medical accreditation. Following receipt of this status report, plaintiffs may file further motions, if appropriate. A further status conference

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

addressing all outstanding issues is set for August 10, 2017, at 9:00 a.m., before the undersigned. The parties shall file a joint status report on or before July 21, 2017.

Motions to Enforce and Modify

Plaintiffs' motion to enforce the consent decree and defendants' motion to modify the consent decree concern the section of the consent decree addressing dental care:

> Dental care shall be promptly provided to all inmates including the repair of teeth and the provision or repair of dentures when necessary. Such necessity shall be based on generally accepted dental practices for the State of California and to allow inmates to eat solid food and maintain good dental health. The Sheriff shall provide dental services in order to avoid unnecessary pain and suffering by the inmates in the jail. The provision of dental care shall not be discouraged in any manner.

Plaintiffs argue that defendants are not in substantial compliance with the consent decree because, as of January 1, 2016, defendants require that any dentures issued by the Plumas County Jail to an inmate will be kept by the jail upon the inmate's release unless the inmate pays for them.

For the reasons discussed at the February 2, 2017 hearing, the undersigned finds that defendants' policy requiring inmates to pay for their dentures if they want to keep them upon release is not in substantial compliance with the consent decree. Accordingly, plaintiffs' motion to enforce the consent decree to prevent defendants from requiring inmates to pay for dentures issued by the Plumas County Jail upon release is granted without prejudice. As discussed at the February 2, 2017 hearing, defendants may move to modify the consent decree to include a provision for payment of dentures upon release if defendants are able to provide evidence supporting such a request as well as legal authority.

Defendants move to modify the consent decree to omit the requirement that dentures be provided to allow inmates to eat solid food. As discussed at the February 2, 2017 hearing, defendants' motion is not presently well supported. The court would require an evidentiary hearing to assess the merits of defendants' motion. Accordingly, defendants' motion is denied without prejudice.

////

At the February 2, 2017 hearing, plaintiffs raised concerns regarding the general dental care provided to inmates by defendants. The undersigned ordered the parties to file a joint status report on or before May 1, 2017, addressing the provision of ordinary dental care at the Plumas County Jail and the status of the denture issue. If significant headway is not reached by the parties regarding these issues by May 1, 2017, the undersigned will order a further status conference prior to August 10, 2017.

Accordingly, IT IS HEREBY ORDERED that:

1. On or before March 16, 2017, defendants shall file a report addressing the status of medical accreditation;

2. A further status conference addressing all outstanding issues is set for August 10, 2017, at 9:00 a.m., before the undersigned; the parties shall file a joint status report on or before July 21, 2017;

3. On or before May 1, 2017, the parties shall file a joint status report addressing the dental care issues discussed above;

4. Plaintiffs' motion to enforce the consent decree (ECF No. 79) is granted;

5. Defendants' motion to modify the consent decree (ECF No. 81) is denied.

Dated: February 8, 2017

Kendall J. Newman

KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

Ped1659.oah