

STATE OF MICHIGAN  
COURT OF APPEALS

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CHARTER TOWNSHIP OF NORTHVILLE,

Plaintiff-Appellee,

and

CHARTER TOWNSHIP OF PLYMOUTH

Intervening Plaintiff-Appellee

v

DEPARTMENT OF CORRECTIONS,

Defendant-Appellant.

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UNPUBLISHED

September 12, 1997

No. 189038

Wayne Circuit Court

LC No. 88-810164-CZ

Before: Markman, P.J., and McDonald and Fitzgerald, JJ.

PER CURIAM.

Defendant appeals by leave granted the circuit court order finding it in violation of a stipulated permanent injunction governing the maximum prisoner population at the Western Wayne Correctional Facility in Plymouth Township. We reverse.

In response to concerns by plaintiffs about an increase in the expansion of prison facilities by defendant in their communities, the Legislature enacted 1985 PA 62, MCL 791.220e; MSA 28.2290(5). Section 220e prohibited defendant from further expanding its facilities in these communities and set maximum populations for the existing prisons. In 1988, Northville Township filed suit against defendant alleging that defendant was in violation of the population maximums set in § 220e and requesting the circuit court to enjoin defendant from violating the statute. The court issued an injunction ordering defendant to comply with § 220e. This Court affirmed that order. See *Northville Twp v Dep't of Corrections*, unpublished opinion per curiam of the Court of Appeals, issued 7/19/89 (Docket No. 109184).

In 1990, the parties entered into a stipulated permanent injunction which read in pertinent part:

IT IS HEREBY ORDERED that defendant[ ], its various agents and servants, shall cause Western Wayne Correctional Facility and Phoenix Correctional Facility to be and remain in compliance with MCLA 791.220(e) [sic], P.A. 1985, No. 62, especially as it relates to the number of prisoners housed in those facilities.

In 1995, the Legislature amended § 220e to increase the maximum population for Western Wayne from 500 to 775 inmates.<sup>1</sup> Shortly thereafter, defendant began housing more prisoners at Western Wayne. Northville Township, joined by Plymouth Township, filed a motion in circuit court requesting the court to order defendant to show cause why it was housing more than 500 prisoners at Western Wayne in violation of the permanent injunction. Plaintiffs argued that the reference to 1985 PA 62 in the injunction indicated an agreement not merely to follow state law, but to permanently fix the population cap at the facility to 500 inmates. Defendant argued in response that the injunction was only intended to require defendant to comply with the most current provisions § 220e, not the provisions specified in the act that originally created the law. The circuit court held that the injunction embodied an agreement that defendant be bound to the limit of 500 prisoners as provided in 1985 PA 62.

On appeal, defendant argues that the lower court erred in concluding that the reference in the injunction to 1985 PA 62 evidenced an agreement that defendant would be bound to the population figures established in that act. We agree. Judgments entered pursuant to the agreement of the parties are of the nature of a contract. *Gramer v Gramer*, 207 Mich App 123, 125; 523 NW2d 861 (1994). Where the language of a consent judgment is clear and unambiguous, interpretation is a question of law. *Id.* Where the terms of a judgment are not clear and factual findings are necessary to clarify the intent of the parties, this Court reviews the lower court's factual findings for clear error. *Beason v Beason*, 435 Mich 791, 805; 460 NW2d 207 (1990). A finding is clearly erroneous where the reviewing court is left with the firm and definite conviction that a mistake has been made. *Id.*

Pursuant to its broad jurisdiction over the state's penal institutions, defendant has authority to agree to limit the population of one of its facilities. MCL 791.204; MSA 28.2274. Here, defendant agreed to comply with "MCLA 791.220(e), P.A. 1985, No. 62" with respect to the population at Western Wayne. The injunction specifies two separate legal expressions and their usage together is inconsistent. As such, it is unclear whether the parties agreed to comply with the statute or the terms of the public act.

Viewing the record as a whole, plaintiffs utilized the legislative process to protect their communities from further prison expansion, which resulted in the enactment of § 220e. When defendant was found to have violated the provisions of that statute, plaintiffs initiated the instant suit to compel defendant to comply with the numerical levels set forth in § 220e. The trial court ordered defendant to comply with that statute and we affirmed that order. Plaintiffs assert that thereafter defendant agreed to go beyond the scope of all of the prior proceedings and grant plaintiffs the further protection that the population at Western Wayne would be permanently fixed. Other than the reference to the public act in the injunction, there is no objective evidence to support this contention. There is no evidence that defendant intended to permanently enjoin the legislative process by permanently fixing the prison population at five hundred inmates. Further, the communications between defendant and the assistant attorney general representing defendant suggest that defendant understood that the injunction would

merely formalize the prior court orders. This interpretation is not only most consistent with the entire record, but also removes the court from matters more appropriate for the political and legislative processes.

Reversed.

/s/ Stephen J. Markman

/s/ Gary R. McDonald

/s/ E. Thomas Fitzgerald

<sup>1</sup> 1995 PA 20.