

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

GREENE COUNTY INMATE, <i>et al.</i> , Plaintiffs, v. SHERIFF GENE FISCHER, <i>et al.</i> , Defendants.	: : : :	Case No. 3:89-cv-069 JUDGE WALTER H. RICE
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DECISION AND ENTRY RESERVING RULING ON JAMES PATTON'S
MOTION TO REOPEN CASE (DOC. #72); DEFENDANTS ORDERED TO
FILE REQUESTED DOCUMENTS WITHIN 30 DAYS

On April 14, 1989, the Court entered a Final Consent Decree, imposing various obligations on Defendants in connection with the operation of the Greene County Jail. Doc. #19. The Court retained jurisdiction to enforce it. This matter is currently before the Court on James Patton's Motion to Reopen Case. He seeks injunctive relief for an alleged violation of the Final Consent Decree, and raises several new challenges to conditions at the jail. Doc. #72.

I. Background and Procedural History

In March of 1989, Ray Matta, an inmate at the Greene County Jail, filed suit on behalf of himself and others similarly situated, challenging conditions at the jail. Shortly thereafter, the parties reached a settlement. On April 14, 1989, the Court

certified a class of “all persons who are currently or who in the future will be incarcerated in the Greene County Jail.” Doc. #19, PageID#2. The Court entered a Final Consent Decree imposing numerous requirements with respect to the inmates’ complaints of overcrowding, lack of an outdoor recreation area, and inadequate medical care. The Court retained jurisdiction to enforce the Final Consent Decree, allowing plaintiffs to “file motions seeking to enforce compliance with any provisions of it.” *Id.* at PageID#13.

Movant James Patton was an inmate at the Greene County Jail from February 24, 2012, until approximately June of 2013. Patton Aff. ¶¶3-4; Ex. 1 to Doc. #77. On April 25, 2013, he filed a Motion to Reopen Case, seeking injunctive relief. Doc. #72. He alleges that Defendants have violated the Final Consent Decree by making the outdoor recreation area available only during certain times of the year. In addition, he asks the Court to address several concerns that were *not* the subject of the Final Consent Decree, including “accommodations for attorney-client meeting areas, access to the courts, physical access to law library, reading material.” *Id.* at PageID##122-23.

II. Relevant Law and Analysis

In response to Patton’s Motion to Reopen Case, Defendants argue only that, because Patton is no longer incarcerated at the Greene County Jail, he lacks standing to pursue the relief requested. Doc. #76. The concept of standing stems from Article III of the United States Constitution, which gives federal courts

jurisdiction only over live “cases and controversies.” *Warth v. Seldin*, 422 U.S. 490, 498 (1975) (citing U.S. Const. art. III, §1). “[T]he doctrine of standing serves to identify those disputes which are appropriately resolved through the judicial process.” *Whitmore v. Arkansas*, 495 U.S. 149, 154-55 (1990). A person may establish the requisite standing to sue by showing: (1) an “injury in fact,” (2) that “fairly can be traced to the challenged action;” and (3) “is likely to be redressed by a favorable decision.” *Id.* at 155 (internal quotations omitted).

Standing is determined at the time the suit is filed. *Smith v. Jefferson Cty. Bd. of Sch. Commr’s*, 641 F.3d 197, 206 (6th Cir. 2011). In this case, because Patton was incarcerated at the Greene County Jail on the date he filed the Motion to Reopen, he meets the constitutional requirements for standing.

Nevertheless, a litigant must maintain a “personal stake in the outcome of the controversy” throughout the litigation. *United States Parole Comm’n v. Geraghty*, 445 U.S. 388, 397 (1980) (quoting *Baker v. Carr*, 369 U.S. 186, 204 (1962)). As a general rule, where, as here, an inmate’s claim for injunctive relief relates to conditions at a particular prison, and the inmate is subsequently transferred out of that facility, the inmate no longer has a legally cognizable interest in the outcome, rendering moot any individual claim for equitable relief, and stripping the Court of jurisdiction. *See, e.g., Muhammad v. City of New York Dep’t of Corr.*, 126 F.3d 119, 123 (2d Cir. 1997); *Jordan v. Sosa*, 654 F.3d 1012, 1030 (10th Cir. 2011) *Gawloski v. Dallman*, 803 F. Supp. 103, 108 (S.D.

Ohio 1992). Therefore, in this case, Patton's individual claim for injunctive relief was rendered moot by his transfer out of the Greene County Jail in June of 2013.

Admittedly, an exception to the mootness doctrine exists where the defendant's conduct is "capable of repetition, yet evading review." The exception applies only when: (1) the challenged action is inherently too short in duration to be fully litigated before its cessation or expiration; and (2) there is a reasonable expectation that the plaintiff will again be subject to the same action. *Spencer v. Kemna*, 523 U.S. 1, 17 (1998).

Patton appears to invoke this exception by arguing that "there are no guarantees that James Patton will not be incarcerated in the Greene County Jail in the future" Doc. #77, PageID##140-41. He has submitted an affidavit stating that, after he is released from jail in Colorado, where he is currently incarcerated, he tentatively plans to return to Greene County, where he will be subject to arrest for outstanding court-ordered fines and restitution. Patton Aff. ¶5.

Patton's statement is insufficient to create a reasonable expectation that he will again be incarcerated at the Greene County Jail. As the court held in *Burford v. Troutt*, 3:11-0115, 2011 WL 5826637, at *4 (M.D. Tenn. Nov. 18, 2011), "although Plaintiff testified that he had been confined at the Jail on several occasions in the past, there is no evidence that he will return to the Jail again in the future, and he has not shown that there is a real and immediate threat that he will suffer a future injury due to the alleged wrongdoing." *See also Kifer v.*

Ellsworth, 346 F.3d 1155, 1157 (7th Cir. 2003) (holding that the possibility that the plaintiff “may be arrested and taken to the county jail at any time . . . is too remote to keep his claim alive”).

Even though Patton’s individual claim for injunctive relief is moot, this is not the end of the inquiry, given that the Court has already certified a class consisting of “all persons who are currently or who in the future will be incarcerated in the Greene County Jail.” Doc. #19, PageID#2. In his reply brief, Patton states that his Motion to Reopen Case is not just for his benefit, but for all class members. Doc. #77, PageID#141.

In *Sosna v. Iowa*, 419 U.S. 393, 402 (1975), the Supreme Court held that, in the class action context, the mootness of a named plaintiff’s individual claim after a class has been certified does not render the action moot. For purposes of Article III, there is still a live case or controversy between the class members and the defendant. *See also Hawkins v. Comporet-Cassani*, 251 F.3d 1230, 1236 (9th Cir. 2001) (“Although Hawkins’ individual claim may have since become moot, the existence of the class preserves the live case or controversy demanded by Article III.”); *Hadix v. Johnson*, 182 F.3d 400, 406 n.3 (6th Cir. 1999) (“Mootness of the original named plaintiffs’ claims, however, does not moot the class action, provided a live controversy remains between the defendants and the plaintiff classes.”).¹

¹ A separate question is whether Patton, who is no longer incarcerated in the Greene County Jail, can adequately represent the interests of the class, consistent

Accordingly, the fact that Patton's individual claim is now moot does not prevent the Court from addressing the issues he has raised in his Motion to Reopen Case, Doc. #72. Nevertheless, as previously noted, the vast majority of issues he raises are outside the scope of the Final Consent Decree. Although the Court retained jurisdiction to enforce the Final Consent Decree, it cannot reopen the case to address brand new grievances; rather, a new suit would need to be filed.

Patton alleges just one violation of the Final Consent Decree, and even that is somewhat arguable. He alleges that Defendants have wrongfully restricted the use of the outdoor recreation area to certain times of the year. The Final Consent Decree requires Defendants to construct "an outdoor recreation facility, available to all inmates, for frequent fair and even-handed use . . . , " in accordance with state requirements. Doc. #19, PageID#8. Defendants were also to "file with this Court a report upon completion of that facility, including its description and the written policies for its use." *Id.*

Although the Court is certain that Defendants complied with the Order and filed the requested report, that report is no longer immediately accessible. Because this case is now nearly 25 years old, many of those documents have been archived. Accordingly, **within 30 days of the date of this Order**, counsel for Defendants shall file with the Court a description of the outdoor recreation facility

with the requirements of Federal Rule of Civil Procedure 23(a)(4). If the Court sustains Patton's Motion to Reopen Case, it may need to consider allowing the substitution of a class representative whose individual claim is not moot. See *Hadix v. Johnson*, 182 F.3d 400, 406 n.3 (6th Cir. 1999).

at issue, along with any current written policies for its use. The Court will
RESERVE RULING on James Patton's Motion to Reopen Case, Doc. #72, until the
Court has had the opportunity to review those documents.

Date: October 21, 2013



WALTER H. RICE
UNITED STATES DISTRICT JUDGE