



Federal judge approves Baltimore consent decree

By: Heather Cobun Daily Record Legal Affairs Writer April 7, 2017

A federal judge on Friday approved and entered the Baltimore consent decree despite requests for a delay from the U.S. Department of Justice.

"The undersigned has no handy yardstick to measure adequacy and claims no special expertise in that regard; whether the proposed decree succeeds in all its goals will be known only in hindsight," U.S. District Judge Robert Bredar wrote in his order. "But the Court reasonably relies upon the expertise underlying the proposed decree and judges the decree adequate to accomplish the reforms sought by Movants. It is comprehensive, detailed, and precise. It appears to be balanced and well-calibrated to achieve the parties shared, jointly-stated objective."

After a public comment hearing Thursday, John Gore, the deputy attorney general for civil rights, asked for a 30-day delay before he considers signing the decree.

Gore said the agency is reviewing all consent decree actions and investigations into law enforcement at the request of Attorney General Jeff Sessions.

But the request came "substantially after the agreement settling this case was negotiated and signed before the parties," Bredar wrote Friday, adding he declined to allow one party to "unilaterally amend an agreement that was jointly reached and signed."

Sessions said in a statement Friday that the agreement, negotiated under the Obama administration, shows "departures from many proven principles of good policing that we fear will result in more crime."

"The decree was negotiated during a rushed process by the previous administration and signed only days before they left office," Sessions said. "While the Department of Justice continues to fully support police reform in Baltimore, I have grave concerns that some provisions of this decree will reduce the lawful powers of the police department and result in a less safe city."

But in a footnote in his memorandum opinion Friday, Bredar said the parties who signed the agreement have complete authority to bind their clients to its terms.

"The time for expressing 'grave concerns' has passed and instead the parties must now execute the agreement they promised they would," he wrote.

'Progress is possible'

Reform advocates praised Bredar's order as a necessary step toward constitutional policing in Baltimore.

"This will support and, in fact, accelerate many needed reforms in the areas of training, technology, and in accountability systems," Baltimore Police Department spokesman T.J. Smith said in a statement. "We expect this process will lead us to the goal we all share: a Baltimore Police Department that leads the progress of the policing profession."

Mayor Catherine E. Pugh expressed the necessity of collaboration between state and federal partners to achieve "ambitious goals" of the parties.

"Our goal is a stronger police department that fights crime while it serves and protects the civil and constitutional rights of our residents," she said in a prepared statement.

Maryland Public Defender Paul B. DeWolfe said it seems like "progress is possible" moving forward.

“Most of the people affected by the unconstitutional behavior that’s been exposed are our clients,” he said in the interview. “We’ve been hearing about these cases for years.”

DeWolfe said he feels like his office has been included in the consent decree process and able to make a difference.

“There’s a lot to work with and I again applaud the commissioner and the police department for their desire for real reform,” he said.

Sherrilyn Ifill, president of the NAACP Legal Defense Fund, which filed a motion to intervene Thursday following the Justice Department’s request for delay, praised Bredar’s order Friday.

“We thank the court for speedily approving an agreement that will help ensure constitutional policing and protect the rights of the people of Baltimore,” she said in a prepared statement. “As Judge Bredar noted, Baltimore flourishes without effective and lawful policing, and this consent decree represents the first step towards that goal.”

Next steps

The city approved and signed the consent decree along with the Justice Department in January, and that same month the department filed a civil rights lawsuit in federal court along with the agreement that proposed to resolve the lawsuit without litigation.

Now that Bredar has made the consent decree court-enforceable, one of the first steps toward implementation will be the selection of a monitor and drafting of a monitoring plan. The parties will have 14 days to submit a plan and schedule to move forward, according to Bredar’s order.

The parties will jointly select the monitoring team, a group “with expertise in policing, civil rights, monitoring, analysis, project management and related areas, as well as local expertise with the diverse communities of Baltimore.”

Community groups expressed a desire to be involved in the selection of a monitor in written and oral comments to the court, particularly to ensure that the diverse groups within the city are adequately represented.

In the decree, the parties acknowledged “it is important to allow for public input at each state of the monitor selection process.”

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