UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

STATE OF WASHINGTON, Plaintiff, v. THE GEO GROUP, INC., Defendant.	CASE NO. 3:17-cv-05806-RJB ORDER DENYING DEFENDANT GEO'S MOTION FOR RECONSIDERATION OF ORDER DENYING MOTION FOR SUMMARY JUDGMENT ON FIRST CAUSE OF ACTION (DKT. 164)

Defendant moves for reconsideration of Order Denying Motion for Summary Judgment on First Cause of Action (Dkt. 162), pointing out that the Court's Order did not address the Washington Department of Labor and Industries Administrative Policy ES.A.1. The Court should have addressed that policy, and will do so now, but that policy makes no difference in the Court's conclusion in Dkt. 162, and further response pursuant to LCR 7(h) is not necessary, nor is oral argument necessary.

The subject policy, ES.A.1, is entitled "Minimum Wage Act Applicability" and refers to RCW 49.46 and WAC 296-128. The policy reiterates the pre-eminence of protection to the worker in paragraphs 1 and 2.

The sub-paragraph that, the defense argues, provides it with some relief here is ES.A.1, 6(k), which reads as follows:

> **Inmates and others in custody.** Residents, inmates or patients of state, county or municipal correctional, detention, treatment or rehabilitative institution would not be required to be paid minimum wage if they perform work directly for, and at, the institution's premises where they are incarcerated, and remain under the direct supervision and control of the institution. State inmates assigned by prison officials to work on prison premises for a private corporation at rates established and paid for by the state are not employees of the private corporation and would not be subject to the MWA.

First, the residents at issue here are not residents of a "state, county, or municipal […] institution."

Second, the residents, or detainees, are not "state inmates."

Third, the institution operated by defendant is not a "prison," which is defined by Black's Law Dictionary (9th ed.) as "A state or federal facility of confinement for convicted criminals, esp. felons."

Fourth, work done by residents, or detainees, at Defendant's facility is not compensated "at rates established and paid for by the state."

ES.A.1 provides defendant no relief from the Court's Order Denying Defendant the GEO Group, Inc.'s Motion for Summary Judgment on Plaintiff's First Cause of Action (Dkt. 162).

We should keep in mind that these issues are raised here in a summary judgment motion. There are, at least, material issues of fact that prevent summary judgment. Exactly what issues and what instructions will be presented to a jury remain to be seen.

/ / /

/ / /

/ / /

THEREFORE, Defendant's Motion for Reconsideration (Dkt. 164) is hereby DENIED.

IT IS SO ORDERED.

Dated this 27th day of December, 2018.

ROBERT J. BRYAN
United States District Judge