

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

STATE OF WASHINGTON,

C17-5806RJB

Plaintiff,

v.

THE GEO GROUP, INC., a Florida
corporation,

Defendant.

C17-5769RJB

UGOCHUKWU GOODLUCK
NWAUZOR, on behalf of all those
similarly situated, and FERNANDO
AGUIRRE-URBINA, individually,

Plaintiffs,

ORDER DENYING, IN PART, AND
RESERVING DECISION, IN PART, ON
THE GEO GROUP, INC.'S RULE 50(b)
MOTION FOR JUDGMENT AS A
MATTER OF LAW

v.

THE GEO GROUP, INC., a Florida
corporation,

Defendant

THIS MATTER comes before the Court on Defendant The GEO Group, Inc.'s ("GEO")
Rule 50(b) Motion for Judgment as a Matter of Law, (filed in *Washington v. The GEO Group, Inc.*, U.S. District Court for the Western District of Washington case number 17-5806, Dkt. 503

1 and in *Nwauzor v. The GEO Group*, U.S. District Court for the Western District of Washington
2 case number 17-5769, Dkt. 394). The Court has considered the pleadings filed regarding the
3 motion, testimony heard during the 11-day trial, and the remaining record.

4 These two consolidated cases arise from Plaintiffs' claims that GEO failed to pay
5 immigration detainees in its Voluntary Work Program ("VWP") the Washington minimum wage
6 at its Northwest Detention Center, now renamed Northwest ICE Processing Center. One case,
7 *Nwauzor*, case number 17-5769, is a class action. The other case is brought by the State of
8 Washington. *State*, case number 17-5806.

9 On August 6, 2018, the class was certified and the class defined as "[a]ll civil
10 immigration detainees who participated in the Voluntary Work Program at the Northwest
11 Detention Center at any time between September 26, 2014, and the date of final judgment in this
12 matter." *Nwauzor*, case number 17-5769, Dkt. 114, at 4. On June 1, 2021, trial began. After an
13 11-day trial, jury deliberations over three days, and a declaration from the jury that they could
14 not agree on a verdict, a mistrial was declared on June 17, 2021. *State*, case number 17-5806,
15 Dkt. 487; *Nwauzor*, case number 17-5769, Dkt. 376.

16 **DISCUSSION**

17 Pursuant to Fed. R. Civ. P. 50(a)(1),

18 If a party has been fully heard on an issue during a jury trial and the court finds
19 that a reasonable jury would not have a legally sufficient evidentiary basis to find
for the party on that issue, the court may:

20 (A) resolve the issue against the party; and

21 (B) grant a motion for judgment as a matter of law against the party on a claim or
22 defense that, under the controlling law, can be maintained or defeated only with a
favorable finding on that issue.

23 Under Rule 50(b), "[i]f the court does not grant a motion for judgment as a matter of law made
24 under Rule 50(a), the court is considered to have submitted the action to the jury subject to the

1 court's later deciding the legal questions raised by the motion." According to Rule 50(b)(3), the
2 court may "direct the entry of judgment as a matter of law in ruling on the renewed motion."

3 In its Rule 50(b) motions, GEO argues that the Washington Minimum Wage Act
4 ("MWA") does not apply to detainees participating in the VWP because the detainees are not
5 employees. *State*, case number 17-5806, Dkt. 503; *Nwauzor*, case number 17-5769, Dkt. 394.
6 GEO further maintains that the doctrine of intergovernmental immunity applies because applying
7 the MWA to GEO here would directly regulate the federal government and would discriminate
8 against the federal government and GEO. *Id.* GEO also asserts that it is entitled to derivative
9 sovereign immunity and that federal law preempts the MWA. *Id.* The State and class oppose the
10 motion. *State*, case number 17-5806, Dkt. 507; *Nwauzor*, case number 17-5769, Dkt. 398. The
11 State has filed a renewed Rule 50 motion for a judgment as a matter of law based on the
12 discrimination portion of GEO's intergovernmental immunity defense. *State*, case number 17-
13 5806, Dkts. 498 and 512. GEO opposes the motion. *State*, case number 17-5806, Dkt. 509. The
14 Court has ordered oral argument on GEO's defense of intergovernmental immunity based on the
15 discrimination portion of the defense. This order does not apply to that defense.

16 GEO's Rule 50 motions (*State*, case number 17-5806, Dkt. 503; *Nwauzor*, case number
17 17-5769, Dkt. 394) should be denied except as to the discrimination portion of its
18 intergovernmental immunity defense. Each of the other grounds on which GEO requests
19 judgment as a matter of law are functionally motions for reconsideration of the Court's prior
20 rulings. The Court is satisfied with those rulings and these additional submissions fail to meet
21 either the Rule 50 standard or the standard under Local Rule W.D. Wash 7(h)(2), which provides
22 that the Court will ordinarily deny motions for reconsideration in the "absence of a showing of
23 manifest error in the prior ruling or a showing of new facts or legal authority which could not
24 have been brought to [the Court's] attention earlier with reasonable diligence."

1 GEO's extensive reliance on *Ndambi v. CoreCivic, Inc.*, 990 F.3d 369, 372-73 (4th Cir.
2 2021) is unpersuasive. It is an out-of-circuit case and is not binding on this Court. It is based on
3 the federal Fair Labor Standards Act, not Washington's MWA and is not "on all fours" with
4 these pending cases in many other respects.

5 Further, the 2009 Contract and 2015 Contract between GEO and the federal government
6 require that GEO comply with all "applicable federal, state and local labor laws." *State*, case
7 number 17-5806, Dkts. 246-2, at 19 and 58; 246-3, at 46 and 52. Those contracts further provide
8 that "[s]hould a conflict exist between any of these standards, the most stringent shall apply."
9 *State*, case number 17-5806, Dkt. 246-2, at 58 and 246-3, at 52. GEO fails to address these
10 provisions in its briefing.

11 GEO's Rule 50(b) Motion for Judgment as a Matter of Law should be denied on all
12 issues except as to the discrimination portion of GEO's intergovernmental immunity defense. A
13 decision on that issue should be reserved until after oral argument.


14 ORDER

15 **IT IS ORDERED THAT:**

- 16 • The GEO Group, Inc.'s Rule 50(b) Motion for Judgment as a Matter of Law (filed
17 in *Washington v. The GEO Group, Inc.*, U.S. District Court for the Western
18 District of Washington case number 17-5806, Dkt. 503 and in *Nwauzor v. The*
19 *GEO Group*, U.S. District Court for the Western District of Washington case
20 number 17-5769, Dkt. 394) **IS DENIED** except as to the discrimination portion of
21 GEO's intergovernmental immunity defense, which **IS RESERVED**.

1 The Clerk is directed to send uncertified copies of this Order to all counsel of record and
2 to any party appearing *pro se* at said party's last known address.

3 Dated this 16th day of August, 2021.

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5 ROBERT J. BRYAN
6 United States District Judge
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