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United States District Court, District of Columbia.

LaSHAWN A., et al., Plaintiffs,
v.
Marion BARRY, et al., Defendants.
Civ. No. 89–1754 (TFH). | Aug. 24, 1995.

Opinion

GENERAL RECEIVERSHIP ORDER

THOMAS F. HOGAN, District Judge.

*1 The purpose of this order is to ensure full compliance with the Remedial Order and the Implementation Plan in an expeditious and cost-effective manner. As the provisions below explain, the Receiver is granted all necessary authority to carry out its responsibilities, including but not limited to any and all authority previously vested in the Office of the Mayor or any other executive branch of the government of the District of Columbia. The Receiver will make reasonable efforts to exercise its authority in cooperation with District of Columbia officials and in a manner consistent with local law whenever possible. However, to the degree that local law governing lines of authority, budgeting, governmental structure and organization, procurement and personnel unreasonably interfere with the Receiver's discharge of its responsibilities, local law is superseded by the Receiver's authority. The defendants and their successors, assigns, subordinates, employees and agents shall fully support and cooperate with the Receiver's efforts to implement the Remedial Order and Implementation Plan. Failure to do so will result in severe sanctions. Copies of this Order shall be circulated to all division heads in the affected agencies, see # I(A).

I. Structure of the Receivership

A. All tasks and activities relating to the implementation of the Remedial Order and the Implementation Plan shall be under the direct authority of the Receiver, regardless of whether they are now located in the Child and Family Services Division, the Family Services Administration, the Commission on Social Services, the Department of Human Services, the Department of Administrative Services, the Office of Corporation Counsel, the Department of Consumer and Regulatory Affairs or the District of Columbia Office of Personnel.

B. The Receiver shall have direct control and line supervisory authority over all activities and tasks relating to members of the *LaShawn* class, including *but not limited to*:

1. family preservation services;
2. investigations of alleged abuse or neglect;
3. intake;
4. placement;
5. ongoing services;
6. adoption;
7. activities of the residential placement unit;
8. licensing and certification of foster and adoptive homes, group care facilities, and licensed child placement agencies;
9. supervision of private vendors under contract to serve members of the *LaShawn* class;
10. training;
11. resource development;
12. creation and management of an independent personnel function with responsibility for hiring, retention, and other personnel actions;
13. creation and operation of an independent contracting and procurement function;
14. creation, management, and oversight of a child welfare management information system, including full authority to participate in the ongoing procurement process for a management information system;
15. creation of an independent budget function with responsibility for budget and fiscal management for services relating to members of the *LaShawn* class;
16. supplies and administrative services necessary to support services to the *LaShawn* class; and
17. submitting claims for federal reimbursement.

*2 These tasks are assigned to the Receiver, who may assign or delegate any tasks as deemed necessary.

II. Receiver's Authority

The Receiver shall have full authority to take all necessary steps to ensure timely implementation of the *LaShawn* Remedial Order and Implementation Plan; including *but not limited to*:

- A. The authority to reorganize the provision of services, including the authority to establish a new organizational entity;
- B. The authority to ensure the implementation of a neighborhood-based model of service delivery;
- C. The authority to initiate privatization of any portion of the District of Columbia child welfare system; and
- D. The authority to designate and assign all necessary administrative, direct service, and support staff, including hiring personnel directly and all other personnel actions deemed necessary by the Receiver to carry out the Court's orders.
- E. The authority to enter into contracts and procure all goods and services necessary to carry out the Child Welfare Receivership.

III. Budget

- A. In developing and implementing the Receivership, the Receiver shall make every effort to work cooperatively and in coordination with the recently-established District of Columbia Fiscal Control Board to ensure the cost-effective operation of the Receivership.
- B. Within 90 days, the Receiver shall develop and submit to the Court and the District of Columbia Fiscal Control Board a projected annual budget, the total amount of which shall be a sum sufficient to run the District's child welfare system, implement the Child Welfare Information System, implement the Resource Development Plan and comply with all aspects of the Remedial Order and Implementation Plan. The budget shall include necessary administrative overhead attached to child welfare functions in relevant agencies of the District of Columbia government including, but not limited to, the Department of Human Services, the Department of Administrative Services, the District of Columbia Office of Personnel, and the Department of Consumer and Regulatory Affairs. The Receiver shall have authority to submit proposed modifications to this budget if additional information, experience, and federal revenues received make changes appropriate.
- C. Within 120 days, the Receiver will submit recommendations to the Court on an independent fiduciary mechanism for receipt and disbursement of funds to operate the child welfare system in conformity with the Court's orders.
- D. Any and all funds obtained through present and new federal maximization efforts for services relating to *LaShawn* class members shall be added fully and directly to the Receiver's budget and shall be used for program enhancement in accordance with federal law. Any such funds received shall have no effect on the level of funds required to be placed in the Receiver's budget by the District of Columbia under any of the provisions of this order.
- E. The Receiver shall prepare subsequent budgets on an annual basis and submit them to the District of Columbia Fiscal Control Board and the Court.
- *3 F. The District of Columbia shall make the funds available to carry out the Child Welfare Receivership in accordance with the approved annual budget.
- G. The Receiver shall submit to an independent audit of financial records at reasonable intervals.

IV. Initial Operating Fund

- A. In order to begin operations in advance of the establishment of the budget and fiscal and personnel procedures, the District shall establish an initial operating fund with the Court in the amount of \$500,000. The Receiver shall authorize payments from the fund for the salary and expenses of the Receiver, the limited Receivers and additional staff, consultants, and expenses necessary to implement the Child Welfare Receivership.
- B. The Receiver shall submit monthly requests for payment from this fund to the Court.
- C. The District shall replenish the fund on a monthly basis to keep it at the established level.
- D. Until the full budget and fiscal mechanism of the Receivership is established, the District shall continue to meet all current and established payroll, administrative costs, foster care payments, contractual and vendor obligations related to the *LaShawn* class.
- E. The Receiver shall also work with the District of Columbia to establish a working fund within the District of Columbia's fiscal structure which the Receiver can use during the initial period of Receivership to cover expenses not included in the Initial Operating Fund. This working fund shall be designed to give the Receiver effective payment and reimbursement authority for goods and services in the event that normal District of Columbia payment procedures should falter, and impede the Receiver in carrying out his responsibilities.

V. Operation of the Limited Receiverships

- A. The orders creating the Limited Receiverships and adopting the Limited Receivers' work plans shall remain in full force and effect until the Receiver assumes his position.
- B. All of the authority vested in the Limited Receivers by the Court's orders shall be incorporated within the authority of the Receiver. In its decisions concerning the operation of services for members of the *LaShawn* class, the Receiver shall have the authority to determine whether to keep the Limited Receivers in place, subject to the full authority and administrative control of the Receiver, or whether to incorporate their functions directly into the Receivership.

V. Role of the Monitor

The Monitor shall develop and submit a plan to the Court detailing the Monitor's withdrawal from its present responsibilities as established by the Court's orders. The plan shall be designed to terminate the Monitor's present role no later than December 31, 1995.

VI. Compensation

The Receiver's salary shall be \$130,000 per year. The District of Columbia shall indemnify the Receiver in the same manner

and to the same extent as it indemnifies other District of Columbia agency heads. The Court shall retain the authority to remove the Receiver for good cause.

VII. Length of the Receivership

*4 The Court anticipates that the Receivership shall terminate within three years. The Receivership shall remain in full force and effect until such time as all elements of the Remedial Order and Implementation Plan have been fully implemented and the Receivership is no longer necessary to assure the ongoing operation of the District of Columbia's child welfare system in accordance with all applicable legal requirements.

Once the Court has determined that the Receivership is no longer necessary, the Court shall establish a reasonable time period to allow for smooth transition of the child welfare system from the Receivership back to the District of Columbia government. The Receiver shall develop a plan to facilitate such transition.

SO ORDERED.