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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

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(26 pp.)

JAMES NORMAN, PAULETTE
PATTERSON, WANDA HILLIARD
JOANN MITCHELL, on their own
behalf and on behalf of all
others similarly situated,

Plaintiffs,

v.

JESS MCDONALD, Director
Illinois Department of
Children and Family Services

Defendant.

RECEIVED

FEB 12 1996

NATIONAL CLEARING HOUSE
FOR LEGAL SERVICES, INC.
No. 89 C 1624
Judge William T. Hart
Magistrate Joan B.
Gottschall

MOTION FOR (1) CONTINUED MONITORING AND/OR (2)
DECLARATORY AND INJUNCTIVE RELIEF REDRESSING
SUBSTANTIAL NON-COMPLIANCE WITH THE CONSENT
DECREE AND THE COURT ORDER OF MARCH 10, 1995.

Plaintiffs move, pursuant to ¶20 of the Consent Decree ("Decree") of March 28, 1991 and pursuant to 28 U.S.C. §§2201 and 2202, for declaratory and injunctive relief redressing defendant's substantial non-compliance with the Consent Decree and the Agreed Order of March 10, 1995 ("Order" or "1995 Order" attached as Appendix A) including an order directing continuing monitoring beyond February 15, 1996 for an additional two year period or such lesser time as the Court determines may be necessary to fulfill the purposes of the Consent Decree. Plaintiffs do not here claim across-the-board non-compliance with the Decree but raise specific non-compliance issues of significance to the Decree as a whole.

In support of this Motion, plaintiffs state:

A. THE DECREE AND SUBSEQUENT IMPLEMENTATION ORDERS

1. The Decree was approved by the Court on March 28, 1991,

1. The Decree was approved by the Court on March 28, 1991, after extensive litigation. See Norman v. Johnson, 739 F. Supp. 1182 (N.D.Ill. 1990). In the Decree, the defendant, director of the Illinois Department of Children and Family Services ("DCFS" or "the Department") agreed:

(a) to cease removing children from the custody of the class members (impoverished parents or guardians involved with DCFS), and failing to return custody of their children to class members because those families lacked basic subsistence needs, i.e. food, clothing, or adequate housing, ¶4 (all cites to paragraphs are paragraphs of the Decree, unless otherwise noted); and

(b) to implement policies and procedures to prevent the unwarranted separation of children and parents, including providing inter alia: (i) provision of timely cash assistance to class members who require initial rent, security deposit, utility connections, furniture or other items necessary for their children to remain in or return to their custody, ¶¶4, 5; (ii) housing assistance services to locate and secure shelter and housing and to assist class members in obtaining subsidized housing and utility assistance where possible, ¶7;¹ (iii) efforts to locate parents who are unstably housed before DCFS takes any adverse action affecting their children, ¶9(e); (iv) timely court action to ensure prompt restoration of custody of class members' children after provision

¹ The cash assistance and housing services mandated by the Decree are now generally known as "Norman" services. Parents identified by DCFS as eligible class members are referred to as "Norman certified."

of Norman services, ¶9(c) and (f); (v) timely Administrative Case Reviews to ensure that class members are identified and receiving all Norman services for which they are eligible, ¶9; (vi) expedited public aid benefits to eligible families to prevent removal of children and to reunite families, ¶9; and (vii) specialized services to victims of domestic violence, ¶4(c).

2. Each requirement of the Decree had a specific target date for implementation. The Decree requires defendant to implement all terms, the vast majority of which impose on-going obligations, no later than December 1, 1991.

3. Integral to the Decree's plan for full implementation was a plan written in detail into the Decree itself for monitoring by an individual selected by the parties and paid for by the defendant, ¶14-19. Defendant agreed to "cooperate fully" with the monitor, ¶14, and to work with plaintiffs and the monitor to "devise procedures for gathering on a semi-annual basis beginning January 1, 1992 and concluding on July 1, 1995, reliable and valid information necessary to measure and ensure compliance." ¶15.

4. The Decree sets forth the minimal information to be gathered and provided to the monitor. ¶15 (a) through (k). This information consists of eleven different categories including, as relevant to this Motion, information concerning: whether the defendant is properly determining who is or is not a class member, ¶15(a); whether defendant is providing timely and sufficient cash assistance to class members, ¶15(b); whether defendant is making reasonable efforts to prevent the unnecessary removal of children

the provision of cash, food, housing assistance and other "hard services," ¶15(c); whether DCFS is taking "all necessary steps to maximize payment of DPA [public aid] benefits" to class members, ¶15(i); and whether the terms of the Decree are being implemented and enforced through the Case Review process, ¶15(f).

5. The Decree provides that the monitor is to receive the information from DCFS semi-annually and then, within sixty days thereafter, the monitor is to submit a report to the parties and the Court regarding the defendant's compliance, ¶16. The Monitor's report is to contain recommendations on how the Department can achieve compliance where necessary. ¶16. These specific recommendations are then to be "considered by defendant in developing" a compliance plan "which plan shall be negotiated with plaintiffs' counsel, with the assistance of the monitor," ¶16.

6. Under the Decree, the court specifically retains jurisdiction "to enforce compliance with this order or the recommendations of the monitor." ¶20. Monitoring is to continue "for a period of four years from July 1, 1991." ¶14. While the monitoring was to cease on July 1, 1995, an order of March 10, 1995 extended the monitor's term to February 15, 1996.

7. Subsequent to the approval of the Consent Decree after a fairness hearing, Jeanine Smith was selected as monitor. Ms. Smith is a child welfare expert with extensive credentials, including background working in the DCFS Administration, and expertise in an array of child welfare programs, particularly in-home services for children and families. The defendant proposed Ms. Smith but the

children and families. The defendant proposed Ms. Smith but the parties agreed that plaintiffs' nominee, Diane Fager, would be a co-monitor assisting Ms. Smith. The appointment was effective July 1, 1991. Order of Reference to Court Appointed Monitor (April 8, 1991).

8. The monitor has filed six semi-annual reports in this case, beginning with the "First Report" dated March 1, 1992, to the "Sixth Report" dated May 24, 1995. The monitor has also done a series of shorter reports regarding specific regions, DCFS area offices and special problems. The monitor is currently preparing a seventh report which is expected to be submitted in February, 1996.

9. This Court's entry of the March 10, 1995 Order extending monitoring until February 15, 1996, followed negotiations arising out of the Fifth Monitoring Report (dated March 15, 1994). That report documented extensive non-compliance by the defendant with numerous terms of the Decree. See Fifth Rep. at 10-46 (finding non-compliance by defendant with 8 of 17 provisions of the Decree).

10. In accordance with the procedure set forth in the Decree ¶16, the parties and the monitors sought to resolve by negotiation some of the non-compliance issues presented in the Fifth Report. In February of 1995, the parties presented to this Court for approval an agreed order which provided inter alia that (1) the term of the monitor would be extended to February 15, 1997; (2) the defendant would provide all information sought by the monitor within thirty days of the monitor's request, Order ¶2; (3) the defendant would provide an employee to act immediately to resolve individual

disputes regarding class members, Order ¶3; (4) defendant would appoint a housing specialist for DCFS, Order ¶5; and (5) defendant would develop and implement a plan by July 1, 1995 to (a) actively initiate petitions in the Juvenile Court of Cook County to return class members' children to their custody and seek prompt hearings thereon; and (b) provide "screening" of cases to determine DCFS' own compliance with the Consent Decree prior to initiating juvenile custody proceedings, Order ¶4. Notably, the agreement was presented to the Court in a joint motion which asserted that these modifications, including the then-two year proposed extension of monitoring, "will effectuate the underlying purposes of the Consent Decree." Joint Motion For Entry of Agreed Order filed February 23, 1995 at ¶4 (attached as Appendix B).

11. The agreement described in ¶10 did not address many of the non-compliance issues identified in the Fifth Report. See Order at ¶7.

12. The Agreed Order that this Court entered was identical to the one that the parties tendered jointly except that the extension of monitoring was limited by the Court to February 15, 1996. In amending the monitoring term, however, the Court indicated that it would entertain a motion for an additional extension of the monitoring period if such relief proved necessary.

B. DEFENDANT'S NON-COMPLIANCE WITH SIGNIFICANT TERMS OF THE DECREE

13. When the Decree was entered almost five years ago, the parties anticipated that the programs and procedures it establishes would be fully operational by the end of 1991. They are not. To the

contrary, several programs and procedures are barely implemented at all. Many programs and procedures are still promised to come in 1996, or later years, and have not begun, let alone been fully implemented.

14. As relevant here, five critical problems persist respecting compliance with the Decree:

(a) DCFS has failed to produce timely, accurate and complete information as required by the Decree. This failure impedes both compliance with the substantive provisions as well as frustrates the effective monitoring which is itself a substantive requirement of the Decree, and part of its implementation process.

(b) DCFS has consistently failed to certify many families eligible for Norman services. Without certification, benefits under the Decree are denied to otherwise eligible class members.

(c) DCFS has frequently failed to provide timely and sufficient cash assistance to families in Cook County causing numerous children unnecessarily to be removed from home or not returned home in violation of ¶¶4(a) and 5(b).

(d) DCFS has failed to develop a plan to "screen" cases for Consent Decree compliance prior to initiate juvenile court actions and failed to initiate prompt return home activity in violation of ¶9(c) of the Decree and ¶4 of the March 10 Order.

(e) DCFS has not adequately utilized public aid resources for families whose children are returning home in violation of ¶6(b).

(1) MONITORING

15. The Decree creates a central role for the monitor. Specifically, her responsibilities are to: (1) develop methods for gathering "reliable and valid" data "necessary to measure and ensure compliance," ¶15; (2) assess compliance and report those findings to the parties and the court, ¶¶15, 16; (3) make recommendations for the purpose of improving compliance in each specific area covered by the Decree, ¶¶9, 14, 15; (4) work directly on developing case records information as set forth in the Decree, ¶9(b); and (5) negotiate (with plaintiffs and defendants) concerning the implementation of recommendations related to compliance ¶16. These provisions establish that, unlike decrees in which monitoring is ordered as relief upon a finding of non-compliance, monitoring here is a substantive requirement of the Decree itself, made part and parcel of the implementation methodology the parties developed and the Court approved.

16. Under the Decree the monitor was to begin work prior to the full implementation of the Decree (December 1, 1991) and then to assess compliance for a three and a half year period after implementation or July 1, 1995. ¶14. The Decree was structured in this manner to permit the monitor to oversee the functioning of specific programs and procedures required by the Decree and to intervene promptly to address practice problems as well as policy issues. Due to the complexity of the child welfare area, a long-range time-frame is essential for the full benefit of monitoring to be realized in effective implementation of and compliance with the Decree.

17. The monitor, Jeanine Smith, has, with the assistance of the co-monitor, Diane Fager, performed her role conscientiously. Thorough reports containing extensive information, analysis and practical recommendations have been compiled and shared with the parties. The monitor has spent hundreds of hours working with Department staff, counsel for the defendant and counsel for plaintiffs on the reports and on implementation. When the Defendant has requested special assistance from the monitor in developing service models and pilot project designs, these requests have been honored. The monitor has undertaken extensive efforts to assist the Department and its service providers in understanding the compliance problems identified by the monitor. And much additional time has been spent attempting to negotiate practical solutions to non-compliance.²

18. Significantly, however, the monitor's ability to carry out her commitment, and thereby to bring about improvements in implementation of the Decree, has been frustrated by delay and inaction on the part of the defendant.

19. Specifically, the monitor has been unable to fully carry out the implementation role envisioned by the Decree in large measure because she has been unable to gather information necessary to accurately measure whether the Department is providing timely and adequate cash assistance. To date, the information required by

² On February 1, 1996, the Director of DCFS, Jess McDonald, in apparent recognition of the skill and expertise of the Norman monitor and co-monitor, named each of them to chair one of three committees overseeing a major redesign of DCFS's front-end. See ¶24 below.

¶15(b) and 15(b) has been entirely incomplete. Children have gone into DCFS' custody or remained in DCFS' custody because timely, adequate cash assistance has been unavailable in violation of ¶¶4 and 5. The Sixth Report notes that "an effective, computerized cash assistance data system is critical to the ongoing operation" of the Norman cash assistance program. Rep. at 35. Though the Department has been aware of the data problem "since the inception" of the Decree, "[s]ecuring accurate [cash] data continues to be a problem." Rep. at 34. Basic information about cash assistance, i.e. the amount given to a family, for what purpose and with what result has not been provided by the defendant since the Decree took effect. Id. A DCFS audit of cash assistance commissioned more than two years earlier still had not been completed when the Sixth Report was issued in May, 1995. Id. A system of data collection was devised with the help of the monitor in December 1994, but DCFS administrators rejected it. Id. Now, defendant promises an automated cash system will take effect in March--one month after the monitor's term is set to expire.

20. The Decree requires that the monitor, together with DCFS, implement "on or before July 1, 1991, a means of capturing and documenting in each case file and centrally" information concerning the taking of custody and reasonable efforts to remedy living circumstances, Decree at ¶9(b). Throughout the monitoring of this Decree, information contained in case files continues to be insufficient to assess compliance with this central obligation.

21. The Decree sets forth additional specific areas for

monitoring. Those provisions establish a baseline of information to be provided to the monitor, much of which has been difficult or impossible to secure, including:

- (a) Risk assessment practices (§§9(d) and 15(j));
- (b) The status of defendant's efforts to implement and utilize return home guidelines or initiate court-related activity (15(d));
- (c) Provision of notice and appeal rights to class members (§10 & 15(g));
- (d) The effectiveness and timeliness of administrative case reviews in enforcing Norman mandates (§15(f)); and
- (e) Caseworker efforts to locate parents deemed "absent" by DCFS (9(e) and 15(c) and (j)).

22. The absence of critical information in turn has made the task of determining compliance difficult or impossible in many areas. And no monitoring has been possible for those aspects of the Decree that are not yet operational. The Decree calls for monitoring for a three and a half year period after implementation. Defendant cannot use the complete failure to implement aspects of the Decree as a means to avoid monitoring of his eventual compliance.

23. On January 31, 1996, DCFS presented to plaintiffs' counsel and the monitors an overview of a redesign of the DCFS investigation, assessment and intact family services programs. As DCFS envisions this redesign of the "front-end" of the child welfare system, sharp divisions between investigation and service delivery functions will be eliminated for families in which children are not removed from their homes, and for families in which the removal of children is intended to be short-term (30 to

90 days). DCFS contemplates that the implementation of this redesign will begin in June, 1996, and training on it will require 18 months. This redesign carries with it a long-term possibility of improving implementation of the Decree, as well as a considerable risk of reduced services to class members if caseloads and caseworker functions are not closely monitored. The magnitude of the potential change, coupled with its risks, suggest that it would be premature to conclude monitoring before the new, thoroughly overhauled system is functioning and its effectiveness can be assessed.

24. Continued monitoring past February 15, 1996 is essential to carrying out the purposes of the Decree because:

(a) Monitoring, in and of itself, improves compliance. For example, the monitor has noted improvements in DCFS performance during monitoring activities, which had not occurred prior to direct monitoring.

(b) Monitoring furnishes plaintiffs' counsel with information essential to negotiating improvements in compliance or, when necessary, bringing non-compliance issues to this Court. In the absence of monitors who gather information, apply their unique expertise, and report to the parties and the Court, plaintiffs would be required to undertake potentially a more costly, disruptive, and adversarial discovery process.

(c) Monitoring also enables the court to rely on a mutually-selected expert in conducting fact-gathering, assessing compliance and making recommendations regarding the fashioning of

appropriate remedies. Without a monitor, the court, in the face of a claim of non-compliance, would have to rely exclusively on an adversarial fact-presentation rather than on the agreed-upon expert and consultant who has a history of close involvement in the case, an in-depth knowledge of the issues and a working relationship with both parties.

(d) A cut-off of monitoring on February 15, 1996 will not permit the Decree's negotiated compliance process to occur regarding the soon anticipated 7th Report. The Decree provides that the monitor's recommendations shall be "considered by the defendant and a "plan to comply" shall be "negotiated with plaintiffs counsel." ¶16. This provision has, until the Sixth Report (submitted on May 24, 1995) been followed with some regularity. However, defendant did not respond to the Sixth Report until December 11, 1995, and thus allowed little or no time for the monitor in the function of facilitating a compliance plan. The Seventh Monitoring Report--covering the entire year, 1995, is in any event, to be completed shortly. This comprehensive report for the critically important last year of monitoring under the Decree and under the Order of March 10, 1995, is essential to any final assessment as to the future course of implementation of the Decree, including the issue of continued monitoring. If the monitor's role were to end abruptly on the February 15, 1996 schedule, it would short-circuit the reporting, negotiation and compliance planning contemplated by the Decree itself.

(2) UNDERCERTIFICATION OF NORMAN FAMILIES

25. Throughout the duration of the Decree, DCFS has consistently failed to properly certify families (particularly in Cook County) as Norman-eligible. See, e.g., Third, Fourth, Fifth and Sixth Monitoring Reports. Two state-wide studies reviewed by the monitor revealed significant undercertification: 19% of cases sampled were not certified when they should have been, according to a 1992 study; 24% of cases were not certified according to a 1993 study. Sixth Report at 12-20. Most recent data from Cook County and the northern region (the collar counties) shows that, of 133 cases which were not Norman-certified, 46 such cases should have been certified. The 1993 study indicated that Cook County--the county with the largest DCFS caseload in the state--failed to certify 17% of the cases reviewed. Data from January, 1996 shows that Cook County failed to certify 23% of cases reviewed. Thus, there has been no progress in improving the certification rate in Cook County in over two years. Without certification, families will be deprived of essential Norman services to enable them to regain or retain custody of their children.

(3) LACK OF TIMELY CASH ASSISTANCE

26. The monitor indicates in her Sixth Report that "during every reporting period [under the Decree], cash assistance agencies in Cook County and downstate have depleted their funds and could not supply needed checks to vendors for clients." Sixth Rep. at 35. The repeated lack of promised resources has a negative impact on caseworkers who then simply cease utilizing the cash program to assist class members. Lack of timely issuance of needed checks has

resulted in class members' loss of much-needed and scarce housing. Id. In November of 1995, all six cash-providing agencies in Cook County ran out of funds to distribute to class members. Failure to access cash has caused children to unnecessarily go into DCFS custody and has prevented class members' children from returning home.

(4) LACK OF SCREENING AND RETURN HOME ACTIVITY

27. The essential purpose of the Decree is to prevent the placement of children in foster care where the provision of subsistence needs will alleviate the need for removal and to return children out of foster care where the provision of basic needs will remedy an obstacle to reunification. In cases involving class members where juvenile court action is necessary to return children home or to further family reunification, the Decree provides that DCFS caseworkers must initiate such court proceedings promptly ¶9(f). Under the Decree, DCFS is to establish reasonable time guidelines for the initiation of such activity, ¶9(c), and the monitor is to measure the status of defendant's efforts, ¶15(d).

28. In the Agreed Order of March 10, 1995, defendant committed to develop and implement a plan to (a) actively initiate petitions for return home of class members' children including seeking timely hearings and other court-related activity; and (b) provide an initial screening of cases in Cook County to determine whether DCFS was complying with the Decree before initiating foster care placement proceedings. Order at ¶4. The Department was to submit a plan 90 days after the Order was entered and to implement

the plan by July 1, 1995. To date, no plan has been provided to plaintiffs by defendant and no plan has been implemented.

(5) UNDERUTILIZATION OF PUBLIC AID RESOURCES

29. Under the Decree, DCFS is to "maximize payment of DPA-administered benefits to eligible families", including developing liaisons within DCFS to work with DPA, developing a streamlined process for DCFS to access benefits for eligible clients and training DCFS workers on utilization of DPA resources. ¶6(b).

Though DCFS has developed such a process, the Sixth Report finds DCFS out of compliance due to its gross underutilization of DPA resources. "Not more than 19 cases of public aid utilization" were reported during the last half of 1994--a time when more than 475 children in Norman-certified families were returned home. Sixth Rep. at p.46. Because class members are impoverished, loss of these additional resources works immense hardship on them and causes delay of, or frustration of the plan to return or regain custody of their children.

C. THE COURT'S AUTHORITY

30. This Court has authority to order the relief requested below on any the following grounds:

a) In so far as the relief requesting an extension of monitoring is concerned, the plaintiffs have not received the monitoring they are entitled to receive under the Decree. Numerous provisions of the Decree were not implemented at all, and could not therefore be monitored, while other provisions were implemented later than the Decree mandated, and some provisions were

implemented without capturing information critical to measuring whether, in fact, the programs work. In this context, for the Court to order continuation of monitoring would enforce the substance of what plaintiffs were to get under the Consent Decree.

b) The relief sought is "further relief" within the meaning of 28 U.S.C. §2202 which is essential to carry out this court's injunctive order (the Decree). See Youakim v. McDonald, 71 F.3d 1274 (7th Cir. Dec. 6, 1995) (affirming district court's order providing additional relief under 28 U.S. 2202 against DCFS Director on behalf of children in DCFS care).

c) The Decree itself provides for the court's jurisdiction to "enforce compliance" with the Decree. The relief sought is essential to enforce compliance. See Youakim v. McDonald, 71 F.3rd 1274 (7th Cir. 1995) (affirming provision of additional relief under paragraph in 1976 order providing for continuing jurisdiction over the order).

PRAYER FOR RELIEF

WHEREFORE, the plaintiffs pray for entry of an order:

A. Extending monitoring for an additional two year period or such other period as this Court determines may be necessary in order to fulfill the purposes of the Decree, or, in the event this relief is not granted, awarding the relief set forth in ¶¶B and C below.

B. Declaring that the defendant has violated and/or is violating ¶¶4(a) and (b), 5(a) and (b), 8(f), 9(c), 15 and 16 of the Decree and ¶¶2, 4(a) and (b) of the 1995 Order.

C. Enjoining defendant from failing to:

1. provide cash benefits promptly to all eligible families by requiring defendant to distribute cash reserves to the Housing Advocacy Programs in ample time for the need to be met;

2. establish and submit to the monitor a plan for improving certification rates for class members in Cook County;

3. develop a plan for improving utilization of IDPA resources.

4. submit to the Court a plan for (a) screening of cases and (b) initiation of return-home related court activity.

D. Establishing a process for determination of this motion that includes an order:

1. Permitting monitoring to continue pending resolution of the allegations in this motion;

2. Granting plaintiffs leave to take discovery necessary to prepare for a hearing on their claims.

3. Setting this matter for such fact-finding hearing before this Court or before the assigned Magistrate at the earliest practicable time.

E. Pursuant to 42 U.S.C. § 1988 or as otherwise authorized by law, award plaintiffs their reasonable costs and attorneys fees in connection with enforcing the Decree, through this motion and otherwise.

F. Granting plaintiffs such other relief as this Court deems appropriate.

Respectfully submitted,


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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
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JAMES NORMAN, PAULETTE)
PATTERSON, WANDA HILLIARD)
JOANN MITCHELL, on their own)
behalf and on behalf of all)
others similarly situated,)

Plaintiffs,)

v.)

JESS MCDONALD, Director)
Illinois Department of)
Children and Family)
Services,)

Defendant.)

No. 89 C 1624
Judge Hart

FILED
MAY 2 1995

AGREED ORDER

This is a class action lawsuit in which a detailed Consent Order was entered by this Court on March 28, 1991. Presently before the Court is a joint motion for entry of an agreed order filed by plaintiffs and defendant. This Court having read the motion and being duly advised of the purpose and nature of the request, hereby enters the following order:

Sub 1. The term of the court-appointed monitor, Jeanine Smith, is extended to February 15, 1996 with the same duties and authority as currently embodied in the Consent Order including retention of her assistant, Diane Fager.

2. Defendant shall fully provide all data required by the Consent Order and requested by the monitor within thirty (30) days of the monitor's request.

3. Defendant shall provide a DCFS "Norman" ombudsperson whose responsibility will be to act promptly to resolve all

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individual case problems involving Norman class members. This person will have authority to act immediately to resolve individual case disputes.

4. By July 1, 1995, defendant will develop and implement a plan for Cook County providing for DCFS to:

(a) actively initiate petitions in Cook County Juvenile Court to return class members' children home and further family reunification, seek prompt, timely hearings of such petitions and initiate other related-activity as required by paragraph 9(f) of the Consent Order; and

(b) provide screening of cases for compliance with the Consent Order prior to DCFS staff initiating legal action.

This plan will be submitted to plaintiffs' counsel and the monitor for their review and comment within 90 days of the entry of this Order.

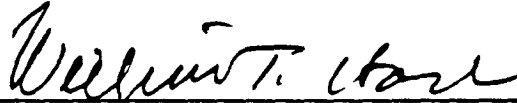
5. Defendant will appoint within 90 days of the date of this order an individual with appropriate expertise to act as a housing specialist.

6. The monitor is excused from the filing of the semi-annual report due September 1994 and will resume reporting for the next semi-annual period.

7. Nothing in this Order relieves defendant of any obligation imposed by the Consent Order of March 28, 1991. The entry of this Order is in settlement and compromise of any possible non-compliance with paragraphs 9(f), 13(a), 15 and 16 of the Consent Order through this date, and with the entry of this

Order, defendant is relieved of liability for such possible non-compliance with paragraphs 9(f), 13(a), 15 and 16.

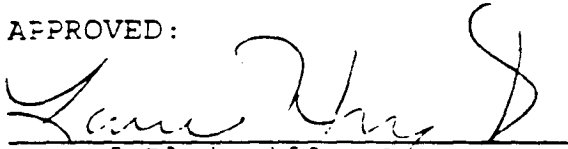
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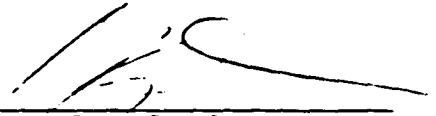
UNITED STATES DISTRICT JUDGE

Dated: 2-27-95

APPROVED:



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FEB 28 1995

H. STEPHEN BRIDGEMAN
CLERK, U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JAMES NORMAN, PAULETTE)
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JOANN MITCHELL, on their own)
behalf and on behalf of all)
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Plaintiffs,)

v.)

No. 89 C 1624
Judge Hart

JESS MCDONALD, Director)
Illinois Department of)
Children and Family)
Services,)

Defendant.)

JOINT MOTION FOR ENTRY OF AGREED ORDER
REGARDING CONSENT DECREE

Class plaintiffs and defendant Jess McDonald, Director of the Illinois Department of Children and Family Service, ("DCFS" or the "Department"), through their undersigned counsel, respectfully move this Court for entry of the attached proposed Agreed Order to extend the term of the court-appointed monitor and to provide for other implementation provisions consistent with the Consent Decree. In support of this motion the parties state as follows:

1. On March 28, 1991, a Consent Decree settling the above-captioned federal class action was entered. The entry of the Consent Decree resolved issues pertaining to Department practices relating to plaintiffs who were at risk of losing custody of their children because they were unable to provide adequate living circumstances for their children. The Decree additionally

provided for the appointment of a monitor who receives reports from the defendant and makes recommendations concerning the implementation of the Consent Decree. The term of the monitor as set forth in the Decree was for four years. Jeanine Smith was appointed by the Court as monitor, to be assisted by Diane Fager.

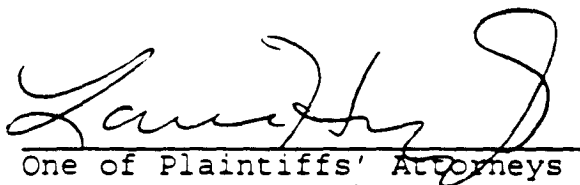
2. Since entry of the Consent Decree, the Department, together with the monitor have worked to implement the Decree. Notwithstanding these efforts, issues remain among plaintiffs' counsel, DCFS and the monitor. Accordingly, the parties have been involved in extensive negotiations over the last six months to resolve disagreements regarding the Defendant's compliance with the terms of the Consent Decree.

4. As a result of these negotiations, the parties have reached an agreement regarding a course of action which will effectuate the underlying purposes of the Consent Decree. This agreement includes the entry of the accompanying proposed Agreed Order which, among other things, will extend the term of the monitor for an additional two years.

5. The parties believe that entry of the Agreed Order provides benefits in the interest of all parties and will avoid litigation over these issues.

WHEREFORE, for the reasons stated herein, the parties respectfully request that this motion be granted and the attached proposed Agreed Order entered.

Dated: Chicago, Illinois
February 15, 1995



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Respectfully submitted,



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Attorney General

CERTIFICATE OF SERVICE

The undersigned attorney certifies that on February 7, 1996, prior to 4:00 p.m. she served a copy of the foregoing NOTICE OF MOTION and MOTION FOR (1) CONTINUED MONITORING AND/OR (2) DECLARATORY AND INJUNCTIVE RELIEF REDRESSING SUBSTANTIAL NON-COMPLIANCE WITH THE CONSENT DECREE AND THE COURT ORDER OF MARCH 10, 1995, to the following counsel of record by hand delivery:

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