

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, COUNTY DIVISION

FILED  
JAN 03 1994

AURELIA PUCINSKI  
CLERK OF CIRCUIT COURT

HOPE HILL, RHONDA SMITH, )  
ANJANETTE VANCE and CRYSTAL TAYLOR )  
by and through their next friend, )  
LESLIE JONES, on their own behalf )  
and on behalf of all others )  
similarly situated, )

Plaintiffs, )

v. )

JAMES ERICKSON, Director, )  
Chicago-Read Henry Horner )  
Children's Center; STERLING M. )  
RYDER, Director, )  
Illinois Department of )  
Children & Family Services; and )  
JESS McDONALD, Director, )  
Illinois Department of )  
Mental Health and Developmental )  
Disabilities, )

Defendants. )

No. 88 CO 296

Judge Marjan Staniec

CONSENT DECREE

This action was commenced initially as a writ of habeas corpus brought by one plaintiff who was a parenting ward of the Illinois Department of Children and Family Services ("DCFS") who had been placed in the Chicago-Read Henry Horner Children's Center, which is operated by the Illinois Department of Mental Health and Developmental Disabilities ("DMHDD"). After this Court entered an agreed order granting the plaintiff's request-

ed relief, plaintiff's counsel amended the original complaint on November 15, 1988, to state a class action on behalf of a class of pregnant and parenting minors who are wards of DCFS. The Amended Complaint asserts claims against the Director of Chicago-Read Henry Horner Children's Center, the Director of DCFS, and the Director of DMHDD in their official capacities.

Plaintiffs in the Amended Complaint seek declaratory and injunctive relief on their own behalf and on behalf of all others similarly situated against alleged policies and practices of defendants under which plaintiffs allege they were inappropriately placed in shelters, mental health facilities and other temporary settings, separating them from their children. Plaintiffs also claim that defendants have failed to provide them with appropriate treatment and services for adolescent or expectant parents. Plaintiffs' Amended Complaint alleges that these policies and practices violate their rights under the Illinois Juvenile Court Act, Ill. Rev. Stat. ch. 37, §§ 801-1, et seq.; the Family Preservation Act, Ill. Rev. Stat. ch. 23, §§ 5005 et seq.; the federal Adoption Assistance and Child Welfare Act, 42 U.S.C. §§ 620, et seq., and §§ 670, et seq.; and the federal and state constitutions.

Prior to certifying the class, this Court held a hearing on a motion for a preliminary injunction on behalf of an unnamed class member and entered an order on January 11, 1989, granting the unnamed plaintiff injunctive relief. A class and sub-class were certified by this Court on June 2, 1989, consisting of:

1. All minor children, defined in Ill. Rev. Stat. ch. 37, § 801-2(12), who, on or after September 21, 1988, have been, are, or will be in the custody of, or under the guardianship of DCFS and are pregnant or have a child or children; and

2. All minor children who, in addition to meeting the class definition stated above, have been, are or will be admitted to a mental health facility under the jurisdiction of DMHDD, as set forth in Ill. Rev. Stat. ch. 91 1/2, §§ 1-114, 100-4.

However, following consideration of the evidence in this case and the terms of this settlement, the parties have agreed that the class in this matter is more appropriately defined as the class set forth in Paragraph 4 below.

During settlement negotiations in this action, the parties agreed to the entry of an Agreed Interim Order on August 14, 1991, providing for preliminary relief for members of the plaintiff class (the "Agreed Order"). The Agreed Order provided, among other things, that within 120 days from the date of the Agreed Order DCFS shall provide all resources necessary to develop and

implement three new programs to serve pregnant and parenting wards. The Agreed Order further provided that DCFS shall retain Denise Kane to direct implementation of these programs. At the expiration of the term of the Agreed Order, this Court held an evidentiary hearing on January 15, 1992, which included testimony by Ms. Kane as to DCFS's compliance with the terms of the Agreed Order. Ms. Kane testified that the three programs required under the Agreed Order had been established by DCFS and that DCFS acted in good faith in working to improve the provision of services to the plaintiff class. On the basis of this testimony, negotiations between the parties on this Consent Decree continued.

Since the January 15 hearing until the time of the entry of this Decree, DCFS has continued the development of the programs described in the Agreed Order and completed an independent psychosocial assessment of certain members of the plaintiff class in order to develop information for further program planning. DCFS also continued to retain Ms. Kane to assist in the development of services for the plaintiff class until May 31, 1993, when Ms. Kane assumed duties as the Inspector General for the Department.

This Consent Decree is the result of a compromise and settlement and is not a determination of liability. Defendants deny all of the allegations in the Amended Complaint, including all legal contentions that any alleged policies or practices have violated any state or federal law. Nothing herein shall be considered an admission of fault of any kind by defendants, nor shall anything herein be considered an admission of any weakness of proof by plaintiffs.

It is the intent of the parties in this action to coordinate the implementation of this Consent Decree with implementation of the Consent Decree in B.H. v. Suter, No. 88 C 5599 (N.D. Ill. Dec. 20, 1991). However, it is the intent of the parties that no timeline in this Decree shall be exceeded due to the B.H. Decree.

In an effort to avoid the burden, costs and inherent risks of further litigation, plaintiffs and defendants have determined that it is in the interests of the class and the public to settle this action with the entry of this Consent Decree.

Having carefully reviewed this Consent Decree, the parties being in agreement hereto, and the Court

being fully advised of the premises, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

**DEFINITIONS**

1. As used herein, the following terms have the following meanings:

(a) "ACR" or "administrative case review" refers to the case review procedure specified under 42 U.S.C. § 675(5), Ill. Rev. Stat. ch. 23, § 5006a and 89 Ill. Adm. Code, § 305.6.

(b) "B.H. Decree" refers to the Consent Decree entered on December 20, 1991 in the federal class action lawsuit B.H. v. Suter, No. 88 C 5599 (N.D. Ill.) (Grady, J.). References to the B.H. Decree in this Consent Decree shall not be construed as altering in any way the enforceability of the terms of B.H. Decree as stated therein.

(c) "Caretaker" means a custodial parent or a parent who has taken an active role in parenting, which includes providing care and nurturance of the child.

(d) "Case plan" or "service plan" means the plan required by 42 U.S.C. § 675(1), Ill. Rev. Stat. ch. 23, § 2058.2 and 89 Ill. Adm. Code § 305.

(e) "Class members" or "plaintiffs" mean members of the class certified and defined in Paragraph 4 of this Consent Decree.

(f) "Custody" or "temporary custody" includes class members who have been placed in the temporary custody of DCFS by order of a juvenile court pursuant to Ill. Rev. Stat. ch. 37, § 802-10 or who have been taken into protective custody in accordance with the Abused and Neglected Child Reporting Act.

(g) "Department of Children and Family Services" or "DCFS" or the "Department" means the defendant Director of DCFS in his official capacity and his agents and includes all successor Directors of DCFS in their official capacity and their agents, as well as the Directors of any successor state agencies with the responsibility of taking custody or guardianship of class members.

(h) "Department of Mental Health and Developmental Disabilities" or "DMHDD" means the defendant Director of DMHDD in his official capacity and his agents and includes all successor Directors of DMHDD in their official capacity and their agents, as well as the Directors of any successor state agencies with the responsi-

bility for operating state mental health facilities to which class members are admitted.

(i) "Guardianship" includes all class members who have been committed by order of a juvenile court to DCFS pursuant to Ill. Rev. Stat. ch. 37, § 802-27.

(j) "Private agency" means any agency or service provider providing services to class members under a contract or grant from DCFS, but does not include individual foster parents.

(k) "Ward" means a child in DCFS custody or guardianship by order of the Juvenile Court.

DISCLAIMER

2. By agreeing to this Consent Decree no party makes any express or implied admission of fact or law for any purpose. The provisions set forth in this Consent Decree are solely for the purpose of settlement of this action.

3. This Consent Decree shall apply only to those persons who are members of the plaintiff class. This Decree creates no rights in favor of any other person. Neither shall this Consent Decree be enforceable in any proceedings other than this case. Nothing set

forth in this paragraph shall bar or limit this Court's power to enforce the terms of this Decree.

CLASS CERTIFICATION

4. The parties have agreed, solely for the purpose of this settlement and by way of compromise, and the Court has determined that the June 2, 1989 order should be modified and a class certified as follows:

A class of all minors who, on or after the date of entry of this Consent Decree, are in the custody of or under the guardianship of the Illinois Department of Children and Family Services and are pregnant or are the parent of a child or children, and

- (1) are caretakers of their child or children; or
- (2) have had their child or children removed from their custody by DCFS due to a report of abuse or neglect and the service plan for the child or children has not yet been made; or
- (3) have entered into service plans calling for them to pursue an active role in parenting of their child or children; and

*mental* a sub-class of minors who, in addition to meeting the class definition stated above, are admitted to a health facility operated by the Department of Mental Health and Development Disabilities.

TEEN PARENT COORDINATOR

5. DCFS has appointed a Teen Parent Coordinator and DCFS intends to maintain a qualified employee full-time in this position. The Teen Parent Coordinator will

have the responsibility for coordinating the development of programs and services for class members, including the programs and services set forth in this Decree. The Teen Parent Coordinator also may provide information and expertise concerning pregnant and parenting minors to other staff and agency units within DCFS. In this regard, the responsibilities of the Teen Parent Coordinator will include:

(a) coordinating the activities of DCFS regarding placement and other services for class members as set forth in Paragraphs 17-20 below;

(b) consulting on an ongoing basis with the quality assurance unit to ensure that the mechanisms for conducting quality assurance reviews appropriately address, where necessary, the needs of class members;

(c) consulting on an ongoing basis with the ombudsperson unit to ensure that the mechanisms for responding to complaints appropriately address, where necessary, the needs of class members;

(d) consulting with the administrative case review unit on the development of any protocols or procedures regarding issues concerning class members to be addressed in administrative case reviews;

(e) consulting with the training unit on the development of training consistent with the terms of Paragraph 27 of this Decree; and

(f) preparing an annual report for the Director of DCFS on programs and services for class members as described in this Consent Decree. This report shall be provided to plaintiffs' counsel.

6. In the event of a vacancy in the Teen Parent Coordinator position, DCFS shall ensure that the functions assigned to the Teen Parent Coordinator are adequately covered during any such vacancy and shall make all reasonable efforts to promptly appoint a new Teen Parent Coordinator.

7. Six years from the date of entry of this Decree, DCFS may at any time review the position of Teen Parent Coordinator and determine that the position is no longer needed or that the responsibilities of the Teen Parent Coordinator should be transferred to other DCFS employees. DCFS shall give plaintiffs' counsel notice of any such determination. If plaintiffs' counsel objects to DCFS's decision, the parties shall negotiate in good faith to resolve such objections. If the parties cannot agree as to the necessity of retaining the Teen Parent Coordinator, the matter shall be submitted to the Court.

TEEN PARENT CONSULTANT

8. (a) For at least two years after the date of the entry of this Decree, DCFS will contract with a Teen Parent Consultant to assist the Teen Parent Coordinator in the development of programs and services for class members, including the programs and services set forth in this Decree. The Teen Parent Consultant also may provide information and expertise concerning pregnant and parenting minors to other staff and agency units within DCFS or agencies on contract with DCFS.

(b) The parties jointly will select the Teen Parent Consultant and will submit the name of the Teen Parent Consultant to the Court by no later than 30 days after the date of the entry of this Decree. In the event the parties cannot agree, within 45 days of the entry of this Decree each party shall submit the name of one person together with a statement of the reasons the party supports the appointment of that person. The Court will then select one of these two persons as the Teen Parent Consultant or it may solicit additional names from the parties. If prior to concluding his or her duties the Teen Parent Consultant becomes unavailable to continue, or the parties agree that he or she should be replaced, a new Teen Parent Consultant will be selected jointly by

