

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

B.H., et al.,)	
)	
Plaintiffs,)	
)	Case No. 88 C 5599
v.)	
)	Judge Jorge L. Alonso
GEORGE SHELDON, Acting Director)	
of the Illinois Department of Children and)	
Family Services,)	
)	
Defendant.)	

JOINT EMERGENCY MOTION FOR ENTRY OF AGREED ORDER

Plaintiffs and Defendant, by their attorneys, move that this Court enter an Agreed Order requiring the Illinois State Comptroller to continue to make all payments for the current programs, services and all personnel that are required by the Consent Decree approved by this Court on July 15, 1997 (Dkt. #383) and by the Court’s Supplemental Order to Enforce Consent Decree entered six years ago (Dkt. #461). In support of this Motion, the parties state as follows:

1. The 2016 Fiscal Year for the State of Illinois begins on July 1, 2015. As of the time of filing this Motion, the Governor and the Legislature have not agreed on a budget appropriation bill for the agencies, programs and services involved in implementation of the Consent Decree.

2. The Defendant, the Acting Director of the Department of Children and Family Services (DCFS), has said that he has every intention of complying with the Consent Decree and the Supplemental Order during the current budget impasse. The Comptroller has indicated that she will continue to pay for services provided by private child welfare agencies and other private service providers pursuant to the Consent Decree and Supplemental Order, but she believes she

does not have the authority to continue to make payments for state personnel, such as caseworkers and child protection investigators, without a state budget appropriation or an Order from this Court. The Comptroller, who like the named Defendant is represented by the Office of Attorney General of the State of Illinois, has not yet taken a position on this Motion.

3. The State's position on this issue changed in recent days. On June 29, 2015, Brent Stratton, one of the attorneys representing the Defendant and the Comptroller, had advised Benjamin Wolf, one of the attorneys for the Plaintiffs, that his clients would continue to follow this Court's 2009 Supplemental Order and no additional relief would be necessary to ensure compliance with the Consent Decree on July 1 even if the State did not pass a FY 2016 budget appropriation for the Department of Children and Family Services. *See* Exhibit 1, attached hereto. The parties agreed, as they had after the Court's Supplemental Order in 2009, to negotiate the terms of a notice to be delivered to DCFS contractors and state employees letting them know that they would continue to receive payment for the services, programs and personnel required by the Consent Decree and the Supplemental Order.

4. On July 1, 2015, Mr. Stratton advised Mr. Wolf in a telephone call that the Comptroller now had taken the position that she would not pay DCFS personnel such as caseworkers and investigators in spite of the Supplemental Order. *See* Supplemental Order (Dkt. #461), Paragraph 2.

5. The abused and neglected children who depend on the programs, services and personnel required by the Consent Decree are vulnerable. The children risk serious and irreparable harm if, for example, there are not sufficient numbers of child protection investigators to determine if they have been abused or neglected or if there are not enough DCFS

follow-up workers to make sure the children are safe and receive the services that are required by the Consent Decree.

6. The parties therefore ask this Court to enter an Agreed Order to Enforce Consent Decree assuring compliance with the Consent Decree and the Supplemental Order, including all payments for all current programs, all services, and all personnel that are required by the Consent Decree and Supplemental Order. A copy of the proposed Agreed Order is attached hereto as Exhibit 2.

WHEREFORE, the parties move that this Court enter the attached Agreed Order.

Dated: July 2, 2015

Respectfully submitted,

For Plaintiffs

For Defendants

By: /s/ Benjamin S. Wolf
Benjamin S. Wolf
Roger Baldwin Foundation of ACLU, Inc.
180 N. Michigan Ave., Ste. 2300
Chicago, IL 60601

Lisa Madigan
Illinois Attorney General

By: /s/ Barbara L. Greenspan
Barbara L. Greenspan
Assistant Attorney General
100 W. Randolph St., 11-200
Chicago, IL 60601

Heidi Dalenberg
Schiff Hardin LLP
6600 Willis Tower
Chicago, IL 60606

CERTIFICATE OF SERVICE

I, Benjamin Wolf, an attorney, hereby certify that I caused a true and accurate copy of the foregoing JOINT EMERGENCY MOTION FOR ENTRY OF AGREED ORDER to be served upon all counsel of record via ECF on July 2, 2015.

/s/ Benjamin S. Wolf _____

Exhibit 1

Ben Wolf

From: Stratton, Brent <bstratton@atg.state.il.us>
Sent: Monday, June 29, 2015 2:22 PM
To: Ben Wolf
Subject: RE: BH etc

Correct – no need for another order. Let me discuss with Barb Greenspan the question about giving notice – I suspect she can work that out with DCFS.

Brent

Brent D. Stratton
Chief Deputy Attorney General
Office of the Illinois Attorney General
100 W. Randolph Street, 12th Floor
Chicago, Illinois 60601
tel: 312-814-4499
fax: 312-814-5024
bstratton@atg.state.il.us

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From: Ben Wolf [mailto:bwolf@ACLU-il.org]
Sent: Monday, June 29, 2015 2:20 PM
To: Stratton, Brent
Subject: RE: BH etc

Does “good to go” mean we don’t need an agreed order to get the Comptroller to pay? If so, we should still discuss how to give notice to the contractors, foster parents, etc. BSW

From: Stratton, Brent [mailto:bstratton@atg.state.il.us]
Sent: Monday, June 29, 2015 2:19 PM
To: Ben Wolf
Cc: Barry Taylor
Subject: BH etc

Ben,

We’re good to go re BH. We’re speaking with the Comptroller’s Office at 4:00 regarding the other 3 decrees, so I would suggest postponing our 3:30 call until 4:30.

Thanks.

Brent

Brent D. Stratton
Chief Deputy Attorney General
Office of the Illinois Attorney General
100 W. Randolph Street, 12th Floor
Chicago, Illinois 60601
tel: 312-814-4499
fax: 312-814-5024
bstratton@atg.state.il.us

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Exhibit 2

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

B.H., et al.,)	
)	
Plaintiffs,)	
)	Case No. 88 C 5599
v.)	
)	Judge Jorge L. Alonso
GEORGE SHELDON, Acting Director)	
of the Illinois Department of Children and)	
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)	
Defendant.)	

AGREED ORDER TO MAINTAIN COMPLIANCE WITH CONSENT DECREE

This case is before the Court on the parties’ Joint Emergency Motion to Approve Agreed Order. The parties have advised the Court that the State of Illinois has not yet passed a budget appropriation for the State Fiscal Year beginning on July 1, 2015 (the “FY 2016 budget”). In the absence of a FY 2016 budget appropriation, Defendant will continue to provide all programs, services and personnel required by the Consent Decree (Dkt. #383) and this Court’s Supplemental Order to Enforce Consent Decree entered on June 30, 2009 (Dkt. #461). It is the position of the Illinois State Comptroller that, without an appropriation, the Comptroller does not have the authority to continue to make payments for current personnel that are necessary to maintain compliance with the Consent Decree and the Supplemental Order unless specifically ordered to do so by the Court.

In order to maintain compliance with the Consent Decree, IT IS HEREBY ORDERED THAT:

1. Until the FY 2016 budget takes effect, the Comptroller shall continue to make all payments for all services, all current programs and all personnel, at a level no less than the levels

paid in Fiscal Year 2015, that are necessary to comply with the Consent Decree and Supplemental Order. This order shall remain in effect until the effective date of the FY 2016 budget.

2. Defendant shall publish this Order by (i) posting it on the DCFS website, and (ii) transmitting a copy of the Order to the Illinois Comptroller and to all DCFS personnel, via email where available and by such other additional means as the Defendant employs for communications to the foregoing persons and entities in their usual course of business.

Dated: July 7, 2015

SO ORDERED

BY: _____
United States District Judge