

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

_____)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	
)	Civil No. 1:10-CV-0858(FJS/DRH)
THE STATE OF NEW YORK and)	
THE NEW YORK STATE OFFICE)	
OF CHILDREN AND FAMILY)	
SERVICES,)	
)	
)	
Defendants.)	
_____)	

Joint Motion to Dismiss

The parties, the United States, the State of New York, and the New York State Office of Children and Family Services, pursuant to the Settlement Agreement entered in this action on July 19, 2010, jointly move this Court to enter an order dismissing protection from harm Paragraphs 44(b) (first sentence only), 44(d), 44(e), 44(h), and 56 from the Settlement Agreement. The Office of Children and Family Services (OCFS) and the Justice Center for the Protection of Vulnerable Persons (Justice Center) have maintained substantial compliance for twelve consecutive months and, under the terms of the Settlement Agreement, these paragraphs can now be dismissed from the case.

1. On December 14, 2007, pursuant to its authority under the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997, and the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141, the United States initiated an investigation into conditions at four state-operated juvenile facilities: Finger Lakes Residential Center and Lansing

Residential Center in Lansing, New York, and Tryon Residential Center and Tryon Girls Center in Johnstown, New York.

2. On August 14, 2009, the United States issued a Findings Letter pursuant to 42 U.S.C. § 1997(a)(1), which concluded that certain conditions at the facilities violated the constitutional rights of juveniles committed to the facilities.

3. To resolve issues relating to use of restraints; use of force; use of psychotropic medications; utilization of trained investigators to review staff misconduct; development of a behavior treatment program; development of a mental health program; treatment, prevention, and education of youth with a history of substance abuse; and development of a comprehensive quality assurance program, the parties agreed to enter into a Settlement Agreement. The Settlement Agreement required the State of New York to take specific steps to remedy identified deficiencies in the above areas.

4. The Settlement Agreement, filed simultaneously with the underlying Complaint in this action, was entered by this Court on July 19, 2010.

5. In January 2011, the State closed Tryon Residential Center. Tryon boys who continued to require OCFS facility placement at the time of the closure were transferred to other existing OCFS facilities, among them Finger Lakes Residential Center which was already subject to monitoring under the Settlement Agreement.

6. In August 2011, the State closed Tryon Girls Center. Tryon girls were moved to Taberg Residential Center for Girls (Taberg) and Columbia Girls Secure Center (Columbia). Both parties agreed that Taberg and Columbia would be monitored under the Settlement Agreement.

7. In August 2013, the State closed Lansing Residential Center, and the girls who continued to be in OCFS custody at the time of the closure were released to community supervision.

8. On September 4, 2014, the parties jointly moved for Columbia to be dismissed because it maintained substantial compliance for twelve consecutive months. On September 8, 2014, this Court issued an Order dismissing Columbia.

9. On June 30, 2013, New York State established the Justice Center. The Justice Center's mission is to support the needs of vulnerable persons through advocacy of their civil rights, prevention of mistreatment, and investigation of allegations of abuse and neglect. The Justice Center works with and has jurisdiction over certain programs operated by the Office of Children and Family Services including its residential juvenile justice facilities.

10. After the Justice Center was established, responsibility for portions of the Settlement Agreement (Paragraphs 44(b) (first sentence only), 44(d), 44(e), 44(h), and 56) were transferred from local facility control to the centralized State Office of Children and Family Services Home Office and the Justice Center.

11. In September 2013, the United States and New York State Office of Children and Family Services informally agreed that individual facility compliance should not be withheld based on measures being implemented by the Home Office and Justice Center, while recognizing compliance with such measures is required. Therefore, the United States continued to monitor the Home Office and Justice Center's compliance with respect to these provisions.

12. Based upon its monitoring of the Settlement Agreement, including the monitor's compliance reports, the United States has concluded, and the State of New York agrees, that Defendants have implemented portions of the Settlement Agreement to include Paragraphs 44(b) (first sentence only), 44(d), 44(e), 44(h), and 56 by maintaining substantial compliance for

twelve consecutive months. These paragraphs will no longer be monitored under the Settlement Agreement. Under the terms of the Settlement Agreement, these paragraphs can now be dismissed from the case as required under Section V, paragraph 77(d), of the Settlement Agreement.

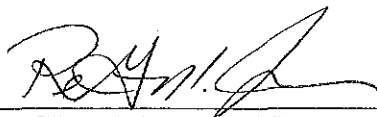
The parties jointly move this Court to enter the attached proposed order dismissing Paragraphs 44(b) (first sentence only), 44(d), 44(e), 44(h), and 56 from the July 19, 2010 Settlement Agreement.

Respectfully submitted,

ON BEHALF OF THE PLAINTIFF

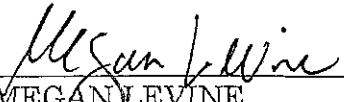
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ON BEHALF OF DEFENDANTS

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ORDER

The parties' Joint Motion to Dismiss Paragraphs 44(b) (first sentence only), 44(d), 44(e), 44(h), and 56 from the Settlement Agreement is hereby GRANTED. These provisions will no longer be monitored under the Settlement Agreement. This order has no bearing or effect upon the remaining facility and provisions covered by the Settlement Agreement. IT IS ORDERED THAT the Clerk of the Court shall dismiss Paragraphs 44(b) (first sentence only), 44(d), 44(e), 44(h), and 56 from the Settlement Agreement in the above-styled case. The Clerk is directed to notify the parties of entry of this Order.

Dated the ___ day of _____, 2015.

United States District Judge