

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

S.H., et al.,

Plaintiffs,

V.

HARVEY J. REED,

Defendant.

CIVIL ACTION NO. 2:04-cv-1206

UNITED STATES OF AMERICA,

Plaintiff,

V.

THE STATE OF OHIO, *et al.*,

Defendants.

CIVIL ACTION NO. 2:08-cv-475

JUDGE ALGENON L. MARBLEY

AGREED ORDER

On February 18, 2014, Plaintiffs in *S.H. v. Reed* filed a motion for specific performance (Doc 389), and alleged a failure “to provide adequate treatment to youth who are or have been on the mental health caseload. As a result many of these youth are experiencing excessive periods of seclusion” *Id* at p. 1. On March 12, 2014, the United States filed a motion for a temporary restraining order in *United States v. Ohio* raising concerns about Defendants’ use of seclusion for all youth with an identified mental health disorder. (Doc 131). The United States also filed a supplemental complaint. (Doc 140).

Shortly thereafter, the parties engaged in settlement negotiations aimed at addressing the issues raised in those filings. The Court hereby consolidates these actions under Fed R. Civ. Proc. 42. They shall retain their separate status but be consolidated for the purpose of case

management and monitoring. The terms of this Order are intended to be implemented consistent with Docs 108 and 359 in *S.H. v. Reed* and with Doc 85 in *United States v. Ohio*.

Attached as Exhibit A to this Order is the agreed grid that details the actions Defendants will undertake to improve mental health services and reduce seclusion of youth who are on the mental health caseload. The actions and deadlines included in the attached grid are hereby incorporated into this Order. Defendants' compliance with those terms will be co-monitored by Mr. Will Harrell and Dr. Kelly Dedel under the Court's jurisdiction, and monitoring will continue until Defendants have maintained substantial compliance with all provisions and performance measures for six months.

Upon entry of this Order, Plaintiffs in *S.H. v. Reed* agree to withdraw their pending motions (Docs 389 and 390) without prejudice. The United States agrees to withdraw without prejudice its renewed motion for a temporary restraining order. (Doc 145). Because Defendants have committed to the eventual elimination of disciplinary seclusion for all youth housed in a DYS facility and to engage with the monitors and subject matter experts within six months hereof to formulate steps to reach that goal, the United States also agrees to withdraw without prejudice the claims in its supplemental complaint concerning youth who are not on the mental health caseload. (Doc 140). The United States agrees that it may not renew those claims until one month after the effective date of a request that this Court conduct a conference with the United States and the Defendants regarding a resolution of the United States' claims and that the effective date for a conference request shall be no sooner than seven months from the date of this Order.

On a quarterly basis starting July 31, 2014, DYS will provide AMS reports for youth not on the MHCL, but who were held in seclusion for an act of violence, that will contain a narrative

of the incident resulting in seclusion, the AMS number, the date and time the youth went into seclusion and the date and time the youth was released from seclusion, the date the youth entered DYS, the date the youth was released from DYS (if youth has been released) and the type of seclusion. On July 31, 2014, DYS shall send the monitors such documents from May 1, 2014 to July 30, 2014. These documents will be provided quarterly until DYS reaches substantial compliance with regard to seclusion, or the lawsuit terminates, whichever occurs first. The monitors may share this information with counsel for the United States and *S.H.* Plaintiffs.

The following areas are hereby removed from monitoring: psychotropic medication, sufficiency of psychiatric resources, and equitable treatment. The remaining areas of monitoring (QA/QI and peer review for mental health and psychiatry, case formulation, fidelity of treatment provided to treatment model, treatment planning and treatment teams, behavior contracts, suicide prevention, and discipline for youth on the mental health caseload through the intervention hearing process) are addressed by the grid and will be monitored in accordance therewith.

This Order is necessary to address and redress ongoing constitutional violations already found, and the relief set forth herein is narrowly drawn, extends no further than necessary, and is the least intrusive means to do so. Defendants may seek to terminate this Order no earlier than July 15, 2015 at which time the *S.H.* Plaintiffs and United States shall bear the burden of proof to demonstrate the existence of an ongoing violation of federal law and that the current order reflects narrowly drawn relief which extends no further than necessary and is the least intrusive means to remedy that violation.

IT IS SO STIPULATED AND AGREED FOR *S.H.* PLAINTIFFS:

DATE: May 20, 2014

s/ Alphonse A. Gerhardstein

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IT IS SO STIPULATED AND AGREED FOR THE UNITED STATES:

DATE: May 20, 2014

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IT IS SO STIPULATED AND AGREED FOR DEFENDANTS REED AND THE STATE OF OHIO, ET AL.:

DATE: May 20, 2014

/s/ Judith Goldstein

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WHEREFORE, for good cause shown, this ORDER shall be entered this 21 day of

May 2014


ALGENON L. MARBLEY
United States District Court Judge