

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

BRIAN A., et al.)	
)	
Plaintiffs,)	Civ. Act. No. 3:00-cv-00445
)	Judge Waverly D. Crenshaw, Jr.
v.)	Magistrate Judge Joe B. Brown
)	
BILL HASLAM, et al.)	
)	
Defendants.)	

**ORDER PARTIALLY TERMINATING JURISDICTION AND
PARTIALLY DISMISSING CASE WITH PREJUDICE**

Plaintiffs filed this federal civil rights class action on May 10, 2000 on behalf of a class “consisting of all foster children who are or will be in the custody” of the Tennessee Department of Children’s Services (“DCS”). The complaint alleged federal constitutional and statutory claims against various state defendants. (Doc. No. 1.) Defendants moved to dismiss on August 1, 2000 (Doc No. 19) that was granted in part and denied in part by the Court (Doc. No. 45).

On July 27, 2001, pursuant to mediation ordered by the Court (Doc. Nos. 52, 56, 57, 59), the parties entered into a Settlement Agreement approved by the Court (Doc. Nos. 109-112). The Settlement Agreement set standards to improve resources, oversight processes and outcomes. The Court appointed monitors and the Technical Assistance Committee (the “TAC”) to assess progress and issue periodic reports.

Plaintiffs filed a motion for contempt of the decree on November 20, 2003 (Doc. No. 169), which was resolved by the parties’ negotiations a month later, leading to a stipulation agreeing to increased compliance with the Settlement Agreement (Doc. No. 190). This was followed by a period of improved agency performance sufficient to lead to the parties’ negotiation of a

Modified Settlement Agreement that extended the period of court monitoring and implemented other modifications to the 2001 Settlement Agreement, which the Court approved on October 1, 2008. (Doc. No. 282).

On November 10, 2010, the parties to this litigation jointly stipulated and agreed to, and requested the Court to approve, the 2010 Modified Settlement Agreement and Exit Plan. (Doc. No. 410, the “2010 Joint Stipulation”). The 2010 Modified Settlement Agreement and Exit Plan (the “2010 Exit Plan”) was attached to the 2010 Joint Stipulation. On that same day, the Court ordered the 2010 Joint Stipulation (Doc. No. 410), and approved and entered the 2010 Exit Plan (Doc. No. 411). The 2010 Exit Plan superseded and replaced the parties’ prior settlement agreement, identified Defendants’ ongoing obligations, and set forth what Defendants had to achieve for the Court to terminate its jurisdiction and dismiss this case.

In particular, the 2010 Exit Plan required Defendants to achieve MAINTENANCE with regard to all provisions in Sections II-XIII and XVI of the 2010 Exit Plan (the “Required Provisions”). Further, that Exit Plan provided that once Defendants achieved MAINTENANCE with 100 percent of the Required Provisions and sustained MAINTENANCE for twelve (12) consecutive months, the Court would terminate its jurisdiction over all provisions of the exit plan except for Section XIX.¹

The 2010 Exit Plan provides that it was to be replaced and superseded annually by an updated exit plan that noted the Required Provisions that were in MAINTENANCE.

¹ Section XIX of the exit plan requires Defendants to develop an external accountability reporting center to report publicly on Defendants’ maintenance of program, policy, and practice improvements once Defendants successfully exit jurisdiction under Section XVIII.D. This external reporting center is required to be funded by Defendants and to issue reports over eighteen (18) months following the entry of the instant Order. After the eighteen-month period concludes, Section XIX.D provides that “Defendants shall file an unopposed Notice of Compliance with this Section XIX and a Proposed Order terminating jurisdiction over ... Section [XIX].”

Thus, from 2011 through 2015, modified exit plans were approved by the Court in which the maintenance status of the Required Provisions was set forth. [The relevant exit plans were approved and can be found at Doc. No. 434, entered on July 12, 2011; Doc. No. 444-1 (approved at Doc. No. 445), entered on October 9, 2012; Doc. No. 500, entered on September 19, 2013; and Doc. No. 541, entered on April 13, 2015].

On April 11, 2016, this Court approved and entered the April 2016 Modified Settlement Agreement and Exit Plan (the "2016 Exit Plan"). (Doc. No. 555). As was true of each modified exit plan entered after 2010, the 2016 Exit Plan superseded and replaced the prior year's modified exit plan. The 2016 Exit Plan, which was entered at the request of both Plaintiffs and Defendants,² established that all Required Provisions were in MAINTENANCE. Moreover, the Parties' 2016 Joint Stipulation makes it clear that the Required Provisions came into MAINTENANCE as of December 31, 2015.³ (Doc. No. 554, p. 5, numbered paragraph 8). Pursuant to the 2016 Exit Plan, and each of the exit plans entered since 2010, if Defendants sustained MAINTENANCE with all Required Provisions for twelve months, through December 31, 2016, Defendants would fulfill their obligations under the Exit Plan and then, pursuant to Section XVIII.D.2, Defendants could request that "the court issue an order terminating jurisdiction" over this litigation (except for Section XIX). Defendants sustained MAINTENANCE with all Required Provisions throughout the next twelve months, through December 31, 2016.

² See Joint Stipulation Seeking Court Approval of Proposed April 2016 Modified Settlement Agreement and Exit Plan (the "Parties 2016 Joint Stipulation"). (Doc. No. 554).

³ It is important to note that the conclusion that Defendants had achieved MAINTENANCE with all Required Provisions, as set forth in the 2016 Exit Plan and the Parties' 2016 Joint Stipulation, was based on the findings of the exhaustive reports of the TAC, which were filed on February 8, 2016 (Doc. No. 552-1) and April 4, 2016 (Doc. No. 554-1).

On May 16, 2017, Plaintiffs and Defendants filed a Joint Stipulation Seeking Court Approval of the April 2017 Modified Settlement Agreement and Exit Plan. (Doc. No. 579 (the “Parties’ 2017 Joint Stipulation”). Attached to the Parties’ 2017 Joint Stipulation as Exhibit A was the proposed April 2017 Modified Settlement Agreement and Exit Plan. (Doc. No. 579-1 (the “2017 Exit Plan”). This Court approved and entered the 2017 Exit Plan on July 17, 2017. (Doc. No. 588). The 2017 Exit Plan, which was entered at the request of both Plaintiffs and Defendants, established that all Required Provisions continue to be and are in MAINTENANCE. Moreover, the Parties’ 2017 Joint Stipulation makes it clear that the Required Provisions were in MAINTENANCE “no later than December 31, 2015, and Defendants sustained MAINTENANCE status on all [Required] provisions ... throughout the full calendar year .”⁴ (Doc. No. 579, numbered paragraph 1).

Based on these findings and the entire record in this case, IT IS ORDERED, ADJUDGED AND DECREED that:

1. Defendants achieved MAINTENANCE with all provisions in Sections II through XIII and XVI of the 2017 Exit Plan no later than December 31, 2015;
2. Defendants sustained MAINTENANCE with all provisions in Sections II through XIII and XVI of the 2017 Exit Plan throughout the full calendar year of 2016, that is, continuously from December 31, 2015, through December 31, 2016;
3. Defendants have met their obligations as described in the 2017 Exit Plan, specifically as contemplated in Section XVIII.D.2, and therefore this Court will terminate its jurisdiction in this case with regard to all matters except those obligations set forth in Section

⁴ Similar to footnote 3, the conclusion that Defendants sustained MAINTENANCE with all Required Provisions from December 31, 2015 through December 31, 2016, as set forth in the 2017 Exit Plan and the Parties’ 2017 Joint Stipulation, was based on the findings of the reports of the TAC, which were filed on April 4, 2017 (Doc. No. 576-1) and May 16, 2017 (Doc. No. 578-1).

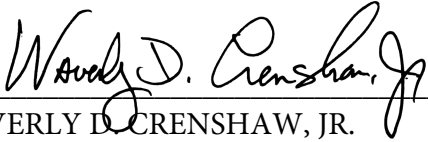
XIX of the 2017 Exit Plan;

4. This Court's jurisdiction over this case is hereby **TERMINATED** and this case is **DISMISSED WITH PREJUDICE** in all respects except as to the obligations set forth in Section XIX of the 2017 Exit Plan.

5. This Court will continue to exercise limited jurisdiction of this matter solely with regard to Section XIX of the 2017 Exit Plan and for no other purpose. The Court's jurisdiction over Section XIX of the Settlement Agreement shall continue for eighteen (18) months following the entry of this Order. At the conclusion of this eighteen (18) month period, Defendants "shall file an unopposed Notice of Compliance with . . . Section XIX and a Proposed Order" terminating this Court's jurisdiction over Section XIX of the 2017 Exit Plan and dismissing this case.

The Court further finds that, as dismissal is based on the merits, this is not a settlement, voluntary dismissal or compromise, and, therefore, separate notice to the class is not required.

IT IS SO ORDERED.



WAVERLY D. CRENSHAW, JR.
CHIEF UNITED STATES DISTRICT JUDGE