

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

KENNY A., by his next friend Linda
Winn, et al.,

Plaintiffs

vs.

SONNY PERDUE, et al.,

Defendants

CIVIL ACTION

1:02-cv-01686-MHS

**STIPULATION REGARDING PLAINTIFFS' CONTEMPT AND
DISCOVERY MOTIONS AND ASSERTION OF STATE DEFENDANTS'
NONCOMPLIANCE WITH OUTCOME MEASURES 9 AND 10**

WHEREAS, on August 19, 2008, Plaintiffs filed a Motion for Order for Defendants to Show Cause Why They Should Not Be Adjudged in Civil Contempt and Sanctioned [#583] for noncompliance with Outcome Measures 9 and 10 of the Consent Decree [#488] entered by this Court on October 27, 2005 ("Plaintiffs' Contempt Motion");

WHEREAS, on August 21, 2008, the Court granted Plaintiffs' motion for order to show cause and issued an Order [#584] directing State Defendants to show cause in writing within 20 days why they should not be adjudged in civil contempt and sanctioned;

WHEREAS, on September 5, 2008, Plaintiffs filed a Motion for Discovery and Scheduling Order [#586] in connection with Plaintiffs' Contempt Motion;

WHEREAS, on September 9, 2008, the parties filed a Stipulation and Agreed Order [#589] to: (1) stay further proceedings with regard to Plaintiffs' Contempt Motion and Plaintiffs' discovery motion, to and through October 10, 2008, to allow the parties to attempt to reach negotiated solutions to the issues raised by Plaintiffs' Contempt Motion; and (2) extend State Defendants' time to show cause in writing why they should not be adjudged in civil contempt and sanctioned, and the date for State Defendants to respond to Plaintiffs' discovery motion, to and through October 20, 2008;

WHEREAS, on September 11, 2008, the Court issued an Order [#590] granting the stay of proceedings and extending State Defendants' response times as requested in the parties' Stipulation and Agreed Order to enable the parties to attempt to resolve these matters amicably;

WHEREAS, on October 10, 2008, November 3, 2008, and November 18, 2008, the Court issued Orders [#594, #600, and #602] extending the stay of proceedings and State Defendants' response time as requested by the parties to enable further negotiations between the parties; and

WHEREAS, the parties have met in good faith and have agreed to resolve the matters in Plaintiffs' Contempt Motion and motion for discovery according to

the terms of this Stipulation Regarding Plaintiffs' Contempt and Discovery Motions and Assertion of State Defendants' Noncompliance with Outcome Measures 9 and 10 ("Stipulation");

THE PARTIES HEREBY STIPULATE AND AGREE as follows:

I. Definitions. For purposes of this Stipulation, the term "backlog pool" refers to either the "24-month backlog pool," as defined in Outcome Measure 9 of the Consent Decree, or the "over-24-month backlog pool," as defined in Outcome Measure 10 of the Consent Decree. The term "permanency" refers to reunification, permanent placement with relatives, permanent legal custody, adoption, or guardianship. (*See* Consent Decree §§ 15(9), 15(10).) "Casey Family Programs" is the name of a national operating foundation located at 1300 Dexter Avenue North, Floor 3, Seattle, Washington, 98109-3542, that has served children, youth, and families in the child welfare system since 1966 by providing direct services and promoting advances in child-welfare practice and policy. Page B. Walley, Ph.D., is a Managing Director for Strategic Consulting at Casey Family Programs and is currently directing efforts by Casey Family Programs to assist State Defendants in achieving permanency for the children in the backlog pools. The term "master practitioners" refers to leading child welfare practitioners from each of the 17 Regional DFCS Offices who have expertise in achieving all forms of permanency for children in foster care (i.e., reunification, permanent placement

with relatives, permanent legal custody, adoption, and guardianship) and who have been or will be so designated by their respective Regional Directors. The terms “G2” and “G-Force” refer to a performance management process currently employed by State Defendants in which regular meetings with State and county leadership and field staff “employ a recursive learning process that uses operational data to support the development and testing of hypotheses about the potential causes of observed performance problems and the framing of strategies for improvement.” (James T. Dimas & Sarah A. Morrison, *Period IV Monitoring Report: Kenny A. v. Perdue: July 1, 2007 to December 31, 2007* (May 14, 2008) 3 [#577].)

II. Permanency Roundtables. State Defendants shall, with the assistance of Casey Family Programs, establish Permanency Roundtables to (a) conduct reviews of the cases of all children in the backlog pools, (b) revise, when appropriate, the written individualized permanency strategies for each child, and (c) devise new strategies, when appropriate, in order to ensure that all reasonable efforts to achieve permanency are taken for each child. Permanency experts from Casey Family Programs will act as consultants to the Permanency Roundtables in order to explore solutions for achieving permanency. Each Permanency Roundtable shall be composed of at least one Georgia master practitioner, who shall serve as a facilitator, and one permanency expert from Casey Family

Programs. In addition to these Permanency Roundtable members, each individual case review shall be presented by the child's case manager or supervisor and such other individuals as are deemed necessary by the Permanency Roundtable. The reviews for all children shall begin no later than January 2009, and shall be completed approximately five weeks thereafter. Upon completion of each child's review, the Permanency Roundtable shall create an individualized written permanency strategy and action plan for that child. Each child's individualized written permanency strategy and action plan shall be implemented, and adjusted as necessary, in order to ensure that all reasonable efforts to achieve permanency are made for each child.

III. Partnership with the Private Sector. State Defendants shall, with the assistance of Casey Family Programs, identify private agencies that have expertise in achieving permanency for children in foster care and may contract with said private agencies for assistance in achieving permanency for some or all of the children.

IV. Permanency Unit. State Defendants shall, with the assistance of Casey Family Programs, establish a specialized Permanency Unit, bringing together resources from different units within DFCS and DHR that currently share or divide responsibility for various components of permanency work that could more effectively be performed or coordinated by a single unit.

V. **G2 and G-Force.** State Defendants shall, with the assistance of Casey Family Programs, employ the G2 or G-Force process to support the work of the Permanency Roundtables by discussing practice patterns and testing hypotheses in order to make reasonable efforts to improve permanent outcomes for children in the backlog pools and for all *Kenny A.* class members.

VI. Reporting.

- (a) Within 7 days of establishing the Permanency Roundtables, State Defendants shall inform Class Counsel in writing of the date by which the Permanency Roundtables were established.
- (b) Within 7 days of the Permanency Roundtables' completion of all reviews, State Defendants shall inform Class Counsel in writing of the date on which the reviews were completed.
- (c) Within 30 days of the Permanency Roundtables' completion of all reviews, State Defendants shall provide to Class Counsel copies of the individualized written permanency strategy and action plans resulting from the review process.
- (d) (i) Within 7 days of the end of the seventh reporting period (i.e., by July 7, 2009), for each child whose individualized written permanency strategy and action plan and/or permanency goal was changed between March 1 and June 30, 2009, State Defendants shall provide to

class counsel the child's case number, the child's prior individualized written permanency strategy and action plan and/or permanency goal, and the child's new individualized written permanency strategy and action plan and/or permanency goal.

(ii) Continuing on a quarterly basis thereafter, for each child whose individualized written permanency strategy and action plan and/or permanency goal was changed during the quarter, State Defendants shall provide to class counsel within 7 days of the end of the quarter the child's case number, the child's prior individualized written permanency strategy and action plan and/or permanency goal, and the child's new individualized written permanency strategy and action plan and/or permanency goal. For purposes of this requirement and the requirement in subsection (e) below, the quarters shall be January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31.

(e) (i) Within 7 days of the end of the seventh reporting period (i.e., by July 7, 2009), State Defendants shall provide Class Counsel with a written report on all exits from each backlog pool during the seventh reporting period, specifying for each child who exited the backlog pool the child's case number, the date of the child's exit, the county

that had custody of the child, and the reason for the child's exit (e.g., adoption, reunification, emancipation, etc.); and a written update on the number of children who remained in each backlog pool at the end of the seventh reporting period (i.e., on June 30, 2009), with separate figures for each county.

(ii) Continuing on a quarterly basis thereafter, State Defendants shall provide to Class Counsel within 7 days of the end of the quarter a written report on all exits from each backlog pool during the quarter, specifying for each child who exited the backlog pool the child's case number, the date of the child's exit, the county that had custody of the child, and the reason for the child's exit (e.g., adoption, reunification, emancipation, etc.); and a written update on the number of children who remained in each backlog pool at the end of the quarter, with separate figures for each county.

VII. Dismissal of Pending Motions. Plaintiffs' Motion for Order for Defendants to Show Cause Why They Should Not Be Adjudged in Civil Contempt and Sanctioned [#583] and Plaintiffs' Motion for Discovery and Scheduling Order [#586] shall be dismissed upon entry of this Stipulation.

VIII. Reservation of Rights. With respect to Outcome Measures 9 and 10 only, Plaintiffs agree not to assert, or seek judicial remedies for, noncompliance

with the Consent Decree, until at least June 30, 2009 (the close of the seventh reporting period under the Consent Decree), unless the terms of this Stipulation are not fulfilled, in which case Plaintiffs may seek judicial remedies earlier in accordance with the provisions contained in Section 17 of the Consent Decree. After June 30, 2009, Plaintiffs may assert, or seek judicial remedies for, noncompliance with Outcome Measures 9 and 10 in accordance with the provisions contained in Section 17 of the Consent Decree. Nothing herein limits or expands any party's rights or obligations with respect to any provision of the Consent Decree other than Outcome Measures 9 and 10.

IX. Legal Obligations of Third Parties. Nothing herein creates, discharges, or otherwise alters any legal obligations on the part of Casey Family Programs or any other third party or parties not signatory to this Stipulation.

SO STIPULATED BY THE PARTIES, DECEMBER 11, 2008:

by:

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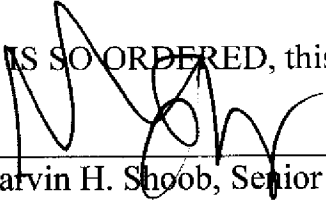
[signatures continued on next page]

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IT IS SO ORDERED, this 11 day of December, 2008.



Marvin H. Shoob, Senior Judge
United States District Court
Northern District of Georgia