

S.H., a minor child and all others similarly situated, et al., Plaintiffs,

v.

TOM STICKRATH, et al., Defendants.

Case No. 2:04-CV-1206.

United States District Court, S.D. Ohio, Eastern Division.

October 21, 2010.

ORDER

ALGENON L. MARBLEY, District Judge.

On October 7, 2010, the Plaintiffs filed their Motion to Dismiss Fred Cohen as Monitor in this case (Doc. 221). A hearing was set on the motion for October 25, 2010 (Doc. 222). On October 19, 2010, Mr. Cohen filed an offer of resignation as the Monitor on an effective date of the Court's choosing (Doc. 228). On October 20, 2010, Mr. Cohen filed a Transition Request in which he asked that the Court order DYS to maintain his and his assistant Linda Mitchell's contracts for personal services for thirty days from the effective date of his resignation in order for him to conduct a number of transitional tasks set forth in the Request (Doc. 230).

On October 20, 2010, the Court conducted a telephonic status conference on the record with Plaintiff S.H. and class, Defendant Ohio Department of Youth Services ("DYS"), Defendant Thomas Stickrath (collectively, "the Parties"), and Interested Party United States Department of Justice. Mr. Cohen did not participate in the conference. The Parties discussed Mr. Cohen's offer of resignation, the status of the pending Motion to Dismiss Fred Cohen as Monitor, Mr. Cohen's Transition Request, and other related matters. For the reasons stated on the record in the conference, it is ORDERED AS FOLLOWS:

That Mr. Cohen's resignation as the Monitor is accepted by the Court. His resignation shall be effective as of the date of this order;

That the Plaintiff's Motion to Dismiss Fred Cohen as Monitor is dismissed as moot;

That the motion hearing set for October 25, 2010 is vacated;

That Vincent Nathan is appointed as Interim Monitor effective as of the date of this order. Mr. Nathan shall be vested with the full powers and responsibilities of a Monitor as provided in the Stipulation for Injunctive Relief until such time as the Court appoints a permanent Monitor. Mr. Nathan shall be compensated at the hourly rate for which he is currently compensated as a member of the Monitoring Team;

That Mr. Cohen's transition request is granted. DYS shall maintain Mr. Cohen's and Ms. Mitchell's contracts for personal services for thirty days from the date of this order. During that time, Mr. Cohen may conduct matters necessary for his transition from the role of Monitor. Any activities undertaken pursuant to the transition that require or depend upon the power of the Monitor for their execution shall be approved or denied by the Interim

Monitor;

That in accordance with Paragraph 253 of the Stipulation for Injunctive Relief, which governs "[i]n the event that Fred Cohen is unable or unwilling to serve as the Monitor," the parties shall each submit for the Court's approval two candidates for the position of Monitor. The Court will also accept the joint submission by the Parties of a nominee or nominees if the Parties succeed in their attempt to reach a consensus. The submissions, whether joint or separate, shall be filed on or before November 19, 2010, and shall only be for candidates who are willing and able to serve as Monitor if selected by the Court.

IT IS SO ORDERED.