

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA,
NORTHERN DIVISION

FILED

DEC 18 1991

CLERK
U. S. DISTRICT COURT
MIDDLE DIST. OF ALA.

R.C., by his next friend,
the ALABAMA DISABILITIES
ADVOCACY PROGRAM, on behalf
of himself and those
similarly situated,

Plaintiffs,

vs.

CHARLES G. CLEVELAND,
commissioner of the
Alabama Department of
Human Resources,

Defendant.

Civil Action
No. 88-H-1170-N

MEMORANDUM OPINION

On May 31, 1991, the parties presented a consent decree to the court. On June 11, 1991, the court conditionally approved the decree, subject to objections that might be presented at a hearing pursuant to Rule 23(e), Fed.R.Civ.P. That hearing was held on September 30, 1991.

Based on the statements of counsel and of interested parties who appeared at the hearing, the evidentiary materials presented at the hearing, and the letters and comments lodged with the court prior to the hearing, the court finds that the proposed consent decree is both fair and reasonable and should be finally approved, with the revision and the understanding noted below.

"Free" Communication

Paragraphs 58(a) and (b) of the proposed decree provide that

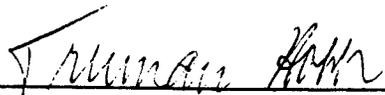
class members shall be permitted to "freely" communicate with certain persons. Although it endorses the intent of these provisions, the court is concerned that the use of the word "freely" does not express adequately the parties' agreement and could be misconstrued to undermine the ability of foster parents and other providers to exercise reasonable supervision over class members in their care. The court therefore has asked the parties to change the language of these provisions, and the parties have agreed that paragraphs 58(a) and (b) of the decree shall read as follows:

a. Class members shall be permitted to communicate by telephone or mail with (i) legal counsel of the class member's choosing, including the class member's guardian ad litem, and (ii) organizations that provide legal services.

b. Class members shall be permitted to communicate by telephone or mail with (i) the class member's parents and family members, and (ii) adult friends of the class member, including former foster parents. This right may be restricted only pursuant to procedures and in circumstances specifically identified in written policy.

The decree requires DHR to promulgate policies, acceptable to the plaintiffs, to effectuate paragraphs 58(a) and (b). In formulating these policies, DHR shall adhere to the intent of the parties' agreement (i.e. the agreement that the parties initially expressed through use of the word "freely").

DONE this 18th day of December, 1991.



UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA,
NORTHERN DIVISION

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MIDDLE DIST. OF

R.C., by his next friend,
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ADVOCACY PROGRAM, on behalf
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Plaintiffs,

v.

CHARLES G. CLEVELAND,
commissioner of the
Alabama Department of
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Defendant.

Civil Action No. 88-H-1170-N

ORDER

In accordance with the Memorandum Opinion entered this date,
it is ORDERED that :

1. The proposed consent decree be and is hereby finally
APPROVED, with the revision noted below; and

2. By agreement of the parties, the word "freely" shall be
stricken from paragraphs 58(a) and (b) of the decree. The decree
requires DHR to promulgate policies to effectuate paragraphs 58 (a)
and (b). In formulating these policies, DHR shall adhere to the
intent of the parties' agreement (i.e., the agreement that the
parties initially expressed through use of the word "freely").

DONE this 18th day of December, 1991.



UNITED STATES DISTRICT JUDGE