

525 F.2d 987 (1975)

Patricia WELSCH et al., Appellees,

v.

Vera J. LIKINS et al., Appellants.

No. 75-1550.

United States Court of Appeals, Eighth Circuit.

Submitted October 15, 1975.

Decided November 17, 1975.

Thomas L. Fabel, Deputy Atty. Gen., St. Paul, Minn., for appellants.

Luther A. Granquist, Legal Aid Society of Minneapolis, Minneapolis, Minn., for appellees.

Before BRIGHT, WEBSTER and HENLEY, Circuit Judges.

PER CURIAM.

This lawsuit was commenced by six mentally retarded persons as a class action on behalf of all those persons who had been committed to Minnesota state hospitals as mentally deficient. The district court granted declaratory relief in *Welsch v. Likins*, 373 F.Supp. 487 (D.Minn.1974), and issued a supplementary order requiring affirmative state action in *Welsch v. Likins*, No. 4-72 Civ. 451 (D.Minn., filed Oct. 1, 1974).

Thereafter, plaintiffs moved that costs be assessed against the defendants, administrators serving the State of Minnesota, including the commissioner and assistant commissioner of the Department of Public Welfare and the administrators of six state hospitals for the mentally retarded. On May 22, 1975, the district court taxed costs in favor of plaintiffs in the sum of \$5,521, the precise amount requested by the plaintiffs. The defendants have appealed contending:

- 1) that the eleventh amendment bars an award of costs since that award will be paid from the state treasury, or, alternatively,
- 2) that the trial court exceeded the bounds of its permissible discretion by awarding costs in the full amount requested by plaintiffs.

Judge Earl R. Larson gave these same contentions extensive consideration and wrote a detailed and persuasive memorandum opinion in support of his order taxing costs in this case.^[1] Anything that we might add would be redundant.

Accordingly, we affirm the award of costs on the basis of Judge Larson's memorandum decision.

[1] *Welsch v. Likins*, 68 F.R.D. 589 (D.Minn.1975).

Save trees - read court opinions online on Google Scholar.