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UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

*
JANE DOE, a minor by and through *
her next friend, JOHN DOE, *
individually and on behalf of *
all others similarly situated, *
et al. *
*
Plaintiffs *
*
v. *
*
ANTHONY MILANO, et al. *
*
Defendants *
*

CIVIL NO. H87-673 (AHN) *YCP*
January 28, 1988

CONSENT JUDGMENT

By agreement of the Plaintiffs and State Defendants, the following Consent Judgment shall resolve the issues in the above-captioned action. The parties herein agree to the following provisions:

I. BACKGROUND

56

1. This class action was filed September 1, 1987 by Jane Doe, a minor by and through her next friend John Doe and by Elizabeth Doe, a minor by and through her next friend, Brian Carlow.

2. This action challenges defendants' policy and practice of detaining out-of-state nondelinquent juvenile runaways in secure juvenile facilities in Connecticut.

3. Though plaintiffs allege that such detention violates their federal constitutional and statutory rights, defendants do not admit nor is there a finding that the statutes pursuant to which such secure detention is allowed, i.e., Conn. Gen. Stat. §§ 46b-149(e), 46b-149a, 17-75 et seq., are violative of plaintiffs' rights under the First, Fourth, Ninth, and Fourteenth Amendments to the United States Constitution and the Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. § 5633(a)(12)(A). Plaintiffs reserve the right to challenge the legality of these statutes should any member of the plaintiff class be admitted to a secure juvenile facility. Defendants reserve all defenses to this action.

4. The parties have discussed settlement of the claims in this action and have entered into this agreement for the purpose of resolving their dispute.

5. As used in this judgment, the following terms shall have the following meanings:

a. "DCYS" shall mean the Connecticut Department of Children and Youth Services, its Commissioner and/or her designee.

b. "Plaintiffs" shall include the named plaintiffs and/or any member of the plaintiff class which consists of all nondelinquent juveniles as said term is defined in the Interstate Compact, Conn. Gen. Stat. §17-76, Art. IV(c).

c. "Defendants" shall include all of the named defendants, their successors in office, and their agents, employees, and assigns.

d. "Detention Centers" shall mean those juvenile facilities operated by defendants which are designed and operated so as to insure that all entrances to and exits from the facility are under the exclusive control of the staff of the facility or

which rely on locked rooms and buildings, fences or physical restraints in order to control the behavior of their residents including but not limited to the Hartford, Bridgeport, and New Haven Juvenile Detention Centers.

e. "Nondelinquent juvenile runaway" shall mean a juvenile who is charged with or has committed solely the act of leaving his or her lawful residence without the permission of the parent, guardian, person or agency then having legal custody of him or her. The term does not include juveniles who are charged with or have been found to have committed offenses that would be criminal if committed by an adult.

6. Now, therefore, without any additional proceedings and upon the consent of the parties to this action, it is hereby ORDERED:

II. ORDER

1. Defendants Amy Wheaton, will, by March 1, 1988, in her capacity as Administrator of the Interstate Compact on Juveniles, Conn. Gen. Stat. § 17-76 et seq., notify all state and local

police departments that as of that date police are no longer to deliver nondelinquent out-of-state juvenile runaways to detention; but, in lieu thereof, are to promptly notify the DCYS Care Line to pick up the child.

2. Defendant Borys agrees that the staff at detention centers will be instructed as of March 1, 1988 to promptly notify the Department of Children and Youth Services Care Line to pick up the child if any nondelinquent out-of-state juvenile runaway is delivered to a detention center on or after that date.

3. Defendant Wheaton agrees that her agents will pick up any out-of-state nondelinquent juvenile runaway no more than six hours after being notified of the need to do so by any state or local police department.

4. Defendant Wheaton agrees that her agents will pick up any out-of-state nondelinquent juvenile runaway no more than two hours after being notified of the need to do so by any detention center.

5. If a nondelinquent out-of-state juvenile runaway wishes to return to his or her home state and the child and/or his or her guardian lacks the money to pay the costs of transportation back to his or her home state, the defendant Commissioner of DCYS shall file, upon request of the child, his or her guardian and/or the agency sheltering him or her, a petition for the child's return under the Interstate Compact on Juveniles, Conn. Gen. Stat. § 17-75 et seq.

6. Pending any voluntary or involuntary return, any signing of a voluntary waiver to return, the filing of any petition for requisition, a hearing on the voluntary waiver or petition for requisition and the return of a nondelinquent out-of-state juvenile runaway under the Interstate Compact on Juveniles (whether said proceeding is initiated by the child through DCYS or by some other individual or agency), defendant Wheaton shall house the juvenile under the same conditions as nondelinquent runaway juveniles who have run away within the State of Connecticut, except by order of the Superior Court.

7. This judgment does not apply to any order by any judge of the Superior Court of the State of Connecticut, nor is it intended to interfere in any manner with proceedings in any court of the State of Connecticut.

8. Plaintiffs shall not be barred from challenging the legality of Conn. Gen. Stat. §§ 46b-149(e), 46b-149a and 17-75 et seq, should any member of the plaintiff class be admitted to a detention center. Defendants reserve all defenses to such a challenge.

9. The defendants will submit to the legislature for the upcoming session a bill to preclude the admission of nondelinquent out-of-state juvenile runaways to secure juvenile facilities.

a. Should this bill fail to pass, this judgment may be reopened.

b. The plaintiffs reserve all claims and the defendants reserve all defenses should the bill fail to pass and the lawsuit proceed.

10. Defendants will pay plaintiffs costs and properly substantiated reasonable attorneys' fees subject to approval by the court, in full and complete satisfaction of all claims under 42 U.S.C. § 1988 to this date.

Respectfully Submitted,

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Attorney for Defendants Milano,
Wheaton, Borys, and Herrington

So Approved:

2/2/88

Wentworth

United States District Judge