

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

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U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS, FLORIDA

ROGER G. CANUPP, JACOB MYERS,
LAWRENCE MCGEE, HUBERT DAVIDSON,
TYWAUN JACKSON, CHARLES DURDEN,
Plaintiffs,

vs.

Case No. 2:04-cv-260-FtM-99-DNF

ROBERT BUTTERWORTH, SECRETARY OF THE
DEPARTMENT OF CHILDREN AND FAMILIES,

Defendant.

ORDER

This matter comes before the Court upon review of the "Interested Class Action Parties' Motion to Intervene on New Legal Issues Violation of Due Process Liberty Interest and Motioning for an Investigation for an Injunctive And/Or Temporary Restraining Order Relief" (Doc. #219, Motion), filed by 14 FCCC residents on December 15, 2008. Counsel representing the Plaintiffs responded (Doc. #220, Response) on December 29, 2008.

The above-styled action is a class action and the class is represented by counsel from the Southern Legal Counsel, Inc., and Florida Institutional Legal Services, Inc. See generally docket history. Counsel did not file the motion sub judice, rather 14 residents from the FCCC, some of who are not included in the class, filed the motion. In summary, the Motion raises issues regarding the move of all FCCC residents to a new facility, which is currently under construction. See generally Motion, Response. In Response, counsel requests that the Court deny the motion. See generally

Response. Counsel states that they lack sufficient information to support a request for judicial intervention regarding the FCCC residents move to the new facility. Id. at 2. Further, counsel explains that they are in the process of conducting discovery concerning the construction and design of the new facility. Id.

ACCORDINGLY, it is hereby

ORDERED:

The "Interested Class Action Parties' Motion to Intervene on New Legal Issues Violation of Due Process Liberty Interest and Motioning for an Investigation for an Injunctive And/Or Temporary Restraining Order Relief" (Doc. #219) is **DENIED**.

DONE AND ORDERED in Fort Myers, Florida, on this 8th day of January, 2009.



DOUGLAS N. FRAZIER
UNITED STATES MAGISTRATE JUDGE

SA: alj
Copies: All Parties of Record