

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

James and Lorie Jensen, as parents, guardians and next friends of Bradley J. Jensen; James Brinker and Darren Allen, as parents, guardians and next friends of Thomas M. Allbrink; Elizabeth Jacobs, as parent, guardian and next friend of Jason R. Jacobs; and others similarly situated,

Civil No. 09-1775 (DWF/FLN)

Plaintiffs,

v.

ORDER

Minnesota Department of Human Services, an agency of the State of Minnesota; Director, Minnesota Extended Treatment Options, a program of the Minnesota Department of Human Services, an agency of the State of Minnesota; Clinical Director, the Minnesota Extended Treatment Options, a program of the Minnesota Department of Human Services, an agency of the State of Minnesota; Douglas Bratvold, individually, and as Director of the Minnesota Extended Treatment Options, a program of the Minnesota Department of Human Services, an agency of the State of Minnesota; Scott TenNapel, individually and as Clinical Director of the Minnesota Extended Treatment Options, a program of the Minnesota Department of Human Services, an agency of the State of Minnesota; and State of Minnesota,

Defendants.

Mark R. Azman, Esq., and Shamus P. O'Meara, Esq., O'Meara Leer Wagner & Kohl, PA, counsel for Plaintiffs.

Steven H. Alpert and Scott H. Ikeda, Assistant Attorneys General, Minnesota Attorney General's Office, counsel for State Defendants.

Samuel D. Orbovich, Esq., and Christopher A. Stafford, Esq., Fredrikson & Byron, PA, counsel for Defendant Scott TenNapel.

The Court has reviewed the Court Monitor's *Memorandum to the Court: Hazards and Possibilities During MSHS-Cambridge's Final Months* (Doc. No. 294)

("Memorandum"), and notes his concern that, "in the closing months of MSHS-Cambridge's existence, the remaining clients not be 'orphaned' and denied the safety, protection and treatment to which they are entitled under the Court's orders. MSHS-Cambridge's current residents are to move to community homes by June 30, 2014."¹

The Minnesota Department of Human Services has responded to the Court Monitor's inquiries which preceded the Memorandum. Recalling that this litigation was initiated after the 2009 public exposure of inappropriate and abusive force at MSHS-Cambridge's predecessor METO,² the Court is extremely disappointed that, more than two years after the approval of the Settlement Agreement, for some employees, safety is equated with "a show of force, power and control" in a "legacy of the old institutional way and not the direction we [DHS] are headed."³ Also, DHS has found that, at least for

¹ *Id.*

² Minnesota Office of Ombudsman for Mental Health and Mental Disabilities, *Just Plain Wrong* (1009).

³ Memorandum at 2 (citing Department of Human Services report to the Court).

the client highlighted in the Memorandum, staff were not competent and adequately trained in her program and that her program was not being implemented. This state of affairs is fraught with risk to the safety of clients and staff alike.

The Court expects the Minnesota Department of Human Services to utilize this opportunity to reinvigorate protections and treatment at MSHS-Cambridge, to ensure settlement-compliant meaningful activity at the facility, and to seriously consider implementation of the Court Monitor's recommendations.⁴

Dated: April 29, 2014

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge

⁴ If the Department disagrees with, or believes it cannot implement, the Monitor's recommendations, it shall inform him immediately. Any unresolved issues on these recommendations may be brought to the attention of the Court.