

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT ARKANSAS

IN THE UNITED STATES DISTRICT COURT **FEB 26 2004**  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION

JAMES W. McCORMACK, CLERK  
By: *[Signature]* DEP. CLERK

ANGELA R., ET AL.

PLAINTIFFS

vs.

CASE NO. 4:91CV415GH

THE STATE OF ARKANSAS, ET AL.

DEFENDANTS

ORDER

On July 8, 1993, plaintiffs filed this class action lawsuit challenging the State of Arkansas' child welfare system. The parties, after extensive negotiations, submitted for the Court's approval a settlement agreement, which the Court approved on October 14, 1994. The settlement agreement called for significant changes in the policies and practices relating to the operation of the state's child welfare system as administered by the Division of Children and Family Services (DCFS). The original settlement agreement was to terminate by October 13, 1999, unless enforcement proceedings were filed with the Court before that date.

On August 31, 1999, the parties filed a joint motion of dismissal and approval of amended settlement agreement in which they requested a modification of the Court's 1994 Order of Dismissal, requesting that the terms of the Agreement be extended until October 13, 2001. The Court approved the motion by Order entered September 1, 1999.

On October 12, 2001, the parties filed a motion for second amended order of dismissal and enforcement of amended settlement agreement. The parties requested that the terms of the Settlement Agreement be extended until December 31, 2001, and that the Court's jurisdiction be terminated on that date unless a subsequent enforcement action is pending on or before December 31, 2001.

The Court approved the motion and a Second Amended Order of Dismissal and Enforcement of Amended Settlement Agreement was entered on October 25, 2001. By

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the terms of the Order, jurisdiction of the Court over enforcement of the settlement agreement terminated on December 31, 2001.

On February 2, 2004, a motion to reinstate the settlement agreement was filed by Terry Foreman. She contends that parents, who are clients of the State, possess documentation that would have prevented settlement of this case. Foreman contends that parents have documentation of abuse and other wrongful conduct by the State with regard to the provision of services of children in its care.

The Court directed the state and counsel for the plaintiffs to file a response to the motion. Only the state has filed a timely response.

To the extent movant seeks enforcement of the settlement agreement, the Court is without jurisdiction. *Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375 (1994) (district court lacks inherent authority to enforce settlement agreement where no retention of enforcement jurisdiction). Here, the Court's jurisdiction over enforcement of the settlement agreement terminated on December 31, 2001.

To the extent movant seeks to set aside the settlement under Fed. R. Civ. P. 60(b), the motion is untimely. Motions to set aside for mistake or fraud or newly discovered evidence must be brought within one year after the order. The other provision of Rule 60(b) do not apply in this instance.

Furthermore, as the State notes, movant does not have standing to challenge the settlement. The Settlement Agreement applies to children who are or will be in the custody of the State by reason of a complaint of abuse or neglect or Family in Need of Services petition. Movant is not the parent or guardian of any child who is within the class.

In sum, the Court is without jurisdiction to provide the relief requested.

Accordingly, the motion to reinstate the Angela R federal agreement is denied; the motion for default judgment on the defendants is denied.

IT IS SO ORDERED this 26 day of February, 2004.

  
UNITED STATES DISTRICT JUDGE

THIS DOCUMENT ENTERED ON  
DOCKET SHEET IN COMPLIANCE  
WITH RULE 58 AND/OR 79(a) FRCP  
ON 2/27/04 BY [Signature]

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UNITED STATES DISTRICT COURT  
Eastern District of Arkansas  
U.S. Court House  
600 West Capitol, Suite 402  
Little Rock, Arkansas 72201-3325

February 27, 2004

\* \* MAILING CERTIFICATE OF CLERK \* \*

Re: 4:91-cv-00415.

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Date: 2/27/04

BY: L Jones