

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

JUAN F., by and through his :
next friends Brian Lynch and :
Isabel Romero, on behalf of :
themselves and all others :
similarly situated, ET AL., :

v. : Civil No. H-89-859(AHN)

JOHN G. ROWLAND, ET AL. :

RULING ON MOTION FOR STAY OF ORDER

The motion of the defendants for a stay of the court's order of December 21, 2000 pending appeal to the Second Circuit or this court's ruling on a yet-to-be-filed motion for modification [doc. # 344] is DENIED.

The defendants have failed to satisfy their heavy burden of showing that (1) there is a strong likelihood of success on the merits; (2) they will be irreparably harmed absent a stay; (3) a stay would not substantially injure the plaintiffs; and (4) the public interest favors a stay. See, e.g., Cooper v. Town of East Hampton, 83 F.3d 31, 36 (2d Cir. 1996); see also Fed. R. Civ. P. 62(c).

The defendants' claim of irreparable harm is that, absent a stay, they will be required to expend more than \$7 million in public funds per year to comply with the court's order that the Consent Decree's social worker staffing requirement be applied to

relative and special study foster homes in the same way it applies to other foster homes. This claim of fiscal harm, no matter how substantial, is not sufficient irreparable injury to warrant a stay. See Sweeney v. Bane, 996 F.2d 1384, 1387 (2d Cir. 1993) (upholding denial of preliminary injunction seeking to prevent erroneous Medicare co-payments because harm was purely financial); see also Tucker Anthony Realty Corp. v. Schlesinger, 888 F.2d 969 (2d Cir. 1989); Sperry Int'l Trade, Inc. v. Government of Israel, 670 F.2d 8, 12 (1982); Long v. Robinson, 432 F.2d 977, 980 (4th Cir. 1974). Irreparable injury is "the kind of injury for which money cannot compensate." Sperry Int'l Trade, Inc., 670 F.2d at 12.

The defendants have also failed to establish that a stay would not substantially injure the plaintiffs. To the contrary, it is likely that a stay, which would allow the defendants to continue denying critical social worker support services to the affected foster children, would place these children at risk of substantial irreparable injury in the form of traumatic disruptions and instability in their foster home placements.

Moreover, the public interest is best furthered by the defendants' immediate implementation of the staffing requirements of the Consent Decree and FTSU Manual pertaining to relative and special study foster homes. Indeed, the members of the plaintiff class, as well as the public in general, would be better served

if the defendants devoted their time and resources to insuring that the DCF provides the services it agreed to under the Consent Decree instead of challenging its clear and unambiguous provisions.

Finally, the defendants have not shown a likelihood that the court of appeals will find that this court's interpretation of the Consent Decree is clearly erroneous. The defendants' contention that the Decree is ambiguous is simply not enough to demonstrate a substantial possibility of success on appeal.

Accordingly, because all of the relevant considerations support denial of a stay, the defendants' motion [doc. # 344] is DENIED.

SO ORDERED this 9th day of February, 2001 at Bridgeport, Connecticut.

Alan H. Nevas
United States District Judge