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United States District Court, E.D. Pennsylvania.

SANTIAGO, et al.

v.

CITY OF PHILADELPHIA.

CIV. A. No. 74-2589. | Jan. 17, 1989.

#### **Attorneys and Law Firms**

Aeda Waserstein, Janet F. Stotland, Steven S. Goldberg, Jack J. Levine, Robert Schwartz, Jonathan M. Stein, Philadelphia, Pa., for plaintiffs.

Agostino Commesa, Alan H. Gilbert, Frank & Margolis, Philadelphia, Pa., for defendants.

Joseph F. Strain, Asst Atty Gen., for State Dept of Ed., Pittenge Ohrtman.

Len Rieser Philadelphia, Pa., for Santiago, et al.

Alfred Marroletti, Philadelphia, Pa., for Family Court.

Richard J. Gold, Philadelphia, Pa., for City of Philadelphia.

Domenic M. Masciantonio, Philadelphia, Pa., for Judges of the Family Court.

Howland W. Abrams, Philadelphia, Pa., for Judicial Defts.

#### **Opinion**

#### **MEMORANDUM**

JOSEPH S. LORD, III, Senior District Judge.

\*1 This has been a protracted litigation involving governmental responsibilities and rights of juveniles accused of delinquency. It initially appeared to the court that the facts were not so much in dispute as was the willingness of the various responsible governmental entities to work together.

The court was reluctant to interpose its judgment on administrative matters, and offered the parties the opportunity to attempt resolution of the issues by agreement. Fifteen years would seem long enough for such agreements to be in place and functioning.

If the parties are expecting the court to tell them how to handle their responsibilities, they have come to the wrong forum. It is the duty of the judiciary to interpret the law, and apply the facts developed in particular litigation to the law.

I am, however, cognizant of the delicate nature of the intergovernmental responsibilities and the significant public concerns in this case. I am also advised that there is great urgency in rendering a decision. The wheels of justice often appear to the public to run exceedingly slow. In order to avoid that possibility in this case, which is in the earliest phase of its current pleadings, I have decided to re-establish my appointment of Robert B. Wolf as Master for the purposes set forth in the accompanying Order.

Mr. Wolf is a distinguished attorney in Philadelphia, a recognized authority on services to youth and familiar with the current situation. There is need for the court to have a competent person experienced in youth affairs, to be its eyes and ears at the Center. Incidentally, the appointment of Mr. Wolf to develop and interpret the facts for the court over the next few months while formal court proceedings continue enable the litigants once again to consult among themselves.

They are advised now that if an adjustment satisfactory to them and the court consistent with Mr. Wolf's report (to which they will have full opportunity to reply), is not worked out, a decision on the law will be rendered as required by statute and decisional law, without regard to hardship or methodology of compliance. If voluntary compliance by the parties is not possible, the likelihood of a formal mastership to protect the public interest in upholding the law will have to be considered.

#### **ORDER**

WHEREAS, litigation was started in 1974 involving the Youth Study Center, a detention facility of the City of Philadelphia operated by the Department of Human Services of the City for detention of youth under the age of 18, and

WHEREAS, the litigation has continued for almost fifteen years to the present with the intermittent amendments to the original consent Order, and intermittent attempts by the court to persuade the parties to work out their problems, and

WHEREAS, the latest Order dated January 21, 1988 established a ceiling for residents of 105 as and after

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February 15, 1988, and the court has been advised by the monitor approved by the court that the ceiling has been consistently exceeded, and

\*2 WHEREAS, there are before the court two applications, one by the District Attorney, of the City of Philadelphia for leave to intervene, and the other by the Plaintiffs to close the Center to further admissions, and

WHEREAS, the issues and positions of all authorities involved in the Center activities, some of whom are before the court and others not, are unclear, the court has determined to have a full report created under the aegis of the court as to the present status of the Youth Study Center and the reasons for that status. For that purpose, it is hereby

ORDERED AND DECREED this 17th day of January, 1989, that Robert B. Wolf, Esquire, a senior respected attorney admitted to practice before this court, and a recognized authority on services to youth be, and he hereby is, appointed Master in the above action for the purpose of ascertaining the present status of the Youth

Study Center with reference to its compliance or non-compliance with the Order entered in this action under date of January 21, 1988 and to review and report on the actions of all entities affecting the situation; and in this connection he shall have authority by the court to set hearings, interrogate witnesses, and conduct informal discussions with officials of the Youth Study Center, of the City of Philadelphia, of the Family Court Division of the Common Pleas Court of Philadelphia, of the District Attorney of Philadelphia and the Secretary of the Pennsylvania Department of Human Services, and any and all other persons whom he shall deem necessary or appropriate to a full and complete investigation as directed herein. In this connection, he shall be deemed to be an official of this court with full right to review any and all records with or without the need to subpoena them, and to have available such assistance from the officials and to retain such additional professional assistance as shall, to him, be necessary and/or appropriate.