

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

THE UNITED STATES OF AMERICA,	)	
	)	CIVIL ACTION NO:
Plaintiff,	)	2:08-cv-475
	)	
v.	)	JUDGE ALGENON L. MARBLEY
	)	
THE STATE OF OHIO, et al.,	)	
	)	
Defendants.	)	
_____	)	

**JOINT MOTION AND [PROPOSED] ORDER FOR ENTRY OF STIPULATION AND
FOR CONDITIONAL DISMISSAL OF COMPLAINT**

The Parties jointly move this Court to enter as its Order the attached Stipulation resolving the United States' claims in this matter as to Scioto Juvenile Correctional Facility ("Scioto") and Marion Juvenile Correctional Facility ("Marion") and, separately, to conditionally dismiss the United States' complaint in this matter (Docket ("Dkt.") # 2) as to the remaining six state-operated juvenile correctional facilities that are subject to this litigation (collectively, "State-Operated Juvenile Correctional Facilities").¹ In support of this motion, the Parties state as follows:

1. On May 16, 2008, the United States filed a complaint alleging the existence of ongoing violations of federal law regarding conditions of confinement in all eight State-Operated Juvenile Correctional Facilities.

¹ The six remaining facilities are: Circleville Juvenile Correctional Facility; Indian River Juvenile Correctional Facility; Cuyahoga Hills Juvenile Correctional Facility; Mohican Juvenile Correctional Facility; Ohio River Valley Juvenile Correctional Facility; and the Freedom Center.

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2. Also on May 16, 2008, in the related case of S.H. v. Taft, No. 2:04-cv-1206, also pending before this Court, the United States filed a Motion to Intervene and Request for Continuance of the May 21, 2008 Fairness Hearing (“Intervention Motion”). On May 18, 2008, plaintiffs in S.H. filed Plaintiffs’ Response to Department of Justice Motion to Intervene (“Plaintiffs’ Response”), (S.H. Dkt # 102) stating that plaintiffs did not oppose the United States’ intervention in S.H. but did oppose a continuance of the fairness hearing. Plaintiffs’ Response at 1. On May 20, 2008, plaintiffs in S.H. amended their position and filed a Supplemental Memorandum, in which plaintiffs opposed the United States’ Intervention Motion (S.H. Dkt # 107). Also on May 20, 2008, the defendant in S.H. filed its Memorandum in Opposition to the United States of America’s Motion to Intervene & Motion to Continue Fairness Hearing (S.H. Dkt # 106).
3. Before the filing of the complaint herein, the United States and Defendants had engaged in negotiations to resolve the United States’ claims. After the filing of the complaint in this matter and the Intervention Motion in S.H., the Parties, assisted by class counsel in S.H., engaged in Court-facilitated negotiations that led to the Parties’ agreement resolving the complaint herein and the Intervention Motion in S.H. Pursuant to that agreement, the United States withdrew its Intervention Motion on May 21, 2008, during the fairness hearing in S.H., subject to the following terms, which were confirmed at the fairness hearing by the Defendants:
 - A. The Court approve and enter as its Order the attached Stipulation, resolving the United States’ claims herein as to Scioto and Marion; and

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B. The Court conditionally dismiss the United States' complaint as to the remaining State-Operated Juvenile Correctional Facilities, subject to the following terms:

- i. The Defendants shall provide the United States, for review and comment, all DYS policies associated with conditions of confinement at the State-Operated Juvenile Correctional Facilities;
- ii. The United States shall have unfettered access to the Monitor and to the DYS Compliance Coordinator in S.H.;
- iii. The Defendants shall provide the United States with copies of all performance data gathered by the Monitor in S.H.; and
- iv. The Defendants shall provide the United States with copies of any reports prepared by the Monitor in S.H.

ACCORDINGLY, the Parties request that the Court enter the attached Stipulation as its Order and, subject to the foregoing terms, conditionally dismiss the United States' complaint as to Circleville Juvenile Correctional Facility, Indian River Juvenile Correctional Facility, Cuyahoga Hills Juvenile Correctional Facility, Mohican Juvenile Correctional Facility, Ohio River Valley Juvenile Correctional Facility, and the Freedom Center.

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FOR THE UNITED STATES:

DATE: June 5, 2008

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WHEREFORE, for good cause shown, it is SO ORDERED.

ALGENON L. MARBLEY
United States District Court Judge