



1200 New Hampshire Ave. NW, Suite 700
Washington, DC 20036
202-955-0095 / [@BecketLaw](#)
www.becketlaw.org

June 14, 2018
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The Honorable Petrese B. Tucker
United States District Court for the Eastern District of Pennsylvania
U.S. Courthouse
601 Market Street
Philadelphia, PA 19106-1790

VIA ECF

Re: *Fulton v. City of Philadelphia*, No. 18-2075

Dear Judge Tucker:

Plaintiffs submit this letter to update the Court regarding factual developments which have occurred since Plaintiffs filed their Motion for a Temporary Restraining Order and Preliminary Injunction, Dkt. 13, on June 5.

First, as discussed in the attached declaration of James Black, on June 12, after two and a half weeks in a temporary respite home, Doe Foster Child #1 was placed with Doe Foster Mother #1. Mr. Black's declaration also explains the ways in which children like Doe Foster Child #1 will continue to miss out on ideal placements as long as the City's policy remains in place.

Second, as referenced in Defendants' Opposition, Dkt. 20 at 11, on Monday, June 11, the City sent Catholic Social Services a letter stating that it would enter into a limited foster care contract, but that it would not resume normal referrals and would allow referrals only in limited circumstances. This approach threatens the imminent closure of Catholic Social Services absent resumption of regular referrals, as discussed in Mr. Black's Declaration. This proposal will also not prevent situations like Doe Foster Child #1's from repeating in the future.

Despite these new factual developments, at least four urgent issues remain: (1) the City's policy creates delays and the risk that situations similar to that of Doe Foster Child #1 will recur; (2) the City's new plan will not permit regular referrals to Catholic Social Services, meaning it will likely have to begin laying off staff in July; (3) the City's actions do not remedy the ongoing violations of Plaintiffs' constitutional rights; and (4) the City's new contract proposal will not result in



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placements for foster families like Mrs. Paul, who is currently willing and anxious to take in new foster children.

Accordingly, Plaintiffs still need urgent relief to ensure that decades of service to the children of Philadelphia can continue, and that additional children and families do not suffer further harm.

A copy of this letter is being served on all counsel of record by ECF.

Respectfully submitted,

/s/ Mark Rienzi

Mark Rienzi*

Lori Windham*

Stephanie Barclay*

Nick Reaves*

The Becket Fund for Religious Liberty

1200 New Hampshire Ave. NW, Suite 700

Washington, DC 20036

Telephone: (202) 955-0095

Facsimile: (202) 955-0090

Counsel for Plaintiffs

**Admitted pro hac vice*

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

SHARONELL FULTON, CECELIA
PAUL, TONI LYNN SIMMS-BUSCH,
and CATHOLIC SOCIAL SERVICES,

Plaintiffs,

v.

CITY OF PHILADELPHIA,
DEPARTMENT OF HUMAN
SERVICES FOR THE CITY OF
PHILADELPHIA, and
PHILADELPHIA COMMISSION ON
HUMAN RELATIONS,

Defendants.

Civil Action No. 18-2075

Assigned to the Honorable
Judge Tucker

DECLARATION OF JAMES BLACK

1. My name is James Black. I am over 21 years old and capable of making this declaration pursuant to 28 U.S.C. § 1746. I have not been convicted of a felony or a crime of dishonesty. I have personal knowledge of all the contents of this declaration.

2. I received my bachelor's degree in Psychology from La Salle University in 1984. In 1988, I received my master's degree in Clinical Psychology from the University of Delaware. I also received my Ph.D in Clinical Psychology from the University of Delaware in 1993. I have been a licensed psychologist in Pennsylvania since 1994. I have worked with Catholic Social Services since 1993. Currently, I serve as the Director of Youth Services, Community Based.

3. In my role as Director of Youth Services, I am familiar with the termination of foster care referrals to Catholic Social Services and its impact. It has had significant and detrimental impacts on our foster care program since it began in March. On June 11, 2018, the City sent Catholic Social Services a letter stating that it would not resume normal referrals and would allow referrals only in limited circumstances. If the City moves forward with this policy, Catholic Social Services will be forced to begin laying off staff for its foster care program starting next month, in July 2018. Further, at the current rate of loss of referrals, Catholic Social Services' foster care program is unsustainable and will likely close altogether within a matter of months.

4. Normally, Catholic Social Services has no more than 4 or 5 vacancies at a given time across all foster families, and these vacancies are often filled within a matter of days. But because of the City's referral stoppage, by the end of June, we will have close to 35 vacancies. Catholic Social Services is required to regularly communicate to the City any current foster care openings. The City has frequently communicated the need for new foster families and the shortage of homes for children. Because there are not enough foster homes available, children can end up in shelter care, group homes, and congregate care. The City's policy will make it more likely that more and more foster families' homes remain empty even though there is a need for children to have these homes.

5. The City's policy of blocking referrals is also resulting in children being placed in situations that are not in the child's best interest. Even when those cases

eventually get resolved in the right way, the City's policy—which it seeks to continue in its June 11 proposal—harms children.

6. Doe Foster Child #1's experience demonstrates this. On Friday, May 25, 2018, I was alerted to the fact that Doe Foster Child #1, a child under the care of our CUA, had been removed from his home due to an emergency situation. Beyond the child's name and identifying information, I did not have details about why the child was removed, his particular situation, or his special needs. By that evening, I just knew that several hours had gone by that DHS had been unable to find a place for this child, and they were even considering having the child sleep at the DHS office or a shelter that evening, and both of those are highly undesirable options for any child. When emergencies like this arise, generally there is an all-hands-on-deck search to try to find a home for a child for the evening. I learned that one of our foster mothers had offered to provide a home for this child hours before. I alerted Deputy Commissioner Ali that we had a foster mother willing to provide a home for this child that evening. I had learned that DHS had declined that option because Catholic Social Services' intake was closed.

7. I learned just before midnight that DHS had found another home for Doe Foster Child #1. This meant that the immediate crisis was averted, and that Doe Foster Child #1 would not have to spend the evening in a DHS office or at a shelter. I alerted Deputy Commissioner Ali that a placement had been found for Doe Foster Child #1, which meant the most pressing crisis had been averted. At that time, I did not have any additional information about Doe Foster Mother #1, her bond with

Doe Foster Child #1, or her concerns about being rejected as a placement option for Doe Foster Child #1.

8. It was not until the end of the following week that I learned additional details from staff about Doe Foster Child #1's situation. Specifically, I learned that Doe Foster Mother #1 was prepared to adopt Doe Foster Child #1, that no other permanent homes were available for Doe Foster Child #1 at that time, that he had begun experiencing difficulty with some bodily functions while in his temporary respite home, and that he was not receiving needed therapy for his autism. Once this additional information came to our attention, CSS immediately communicated this information to DHS on June 1, 2018. We also communicated to DHS that we were available to communicate regarding the situation at any time. DHS did not place Doe Foster Child #1 with his former foster mother until June 12, 2018, even though my understanding is that such a transfer usually would have happened almost immediately and with far fewer procedural hurdles than DHS required in this instance. For example, after the child advocate took the position that Doe Foster Child #1 should be placed with Doe Foster Mother #1 on June 4, 2018, I learned that the City's attorneys communicated to the child advocate that the attorneys could not discuss the case with her. The child advocate is a neutral third party who works for a private organization that contracts with the City and that is not affiliated with Catholic Social Services.

9. I have also learned that on the evening of May 25, 2018, when the City had no placement options for Doe Foster Child #1 and was considering placement in

a shelter, the CUA social worker explained to DHS that Doe Foster Mother #1 was available and willing to take the child back, that the child was nonverbal and had autism, that being placed in some of the options DHS was considering could be traumatic for him, and that Doe Foster Mother #1 would provide a safe and loving environment for the child. The DHS worker expressed concern that Doe Foster Mother #1 was “working with Catholic,” and said that consultation with a superior would be required. Hours later, after consultation, the DHS worker followed up with the CUA social worker to inform him that, notwithstanding Doe Foster Child #1’s special needs and bond with his former foster mother, DHS was unwilling to place Doe Foster Child #1 with his former foster mother because of the City’s ongoing case and dispute with Catholic Social Services.

10. In ordinary circumstances, I cannot think of a single reason why DHS would have been justified in denying this placement with Doe Foster Mother #1. This is particularly true given my understanding that at the time this placement was denied, the only other option DHS had available for the child was a temporary shelter—a particularly traumatic placement for a young, non-verbal special needs child. It was not until hours later that a temporary respite home with a different agency was even located. And while in respite care, Doe Foster Child #1 was not able to receive any therapy for his autism, which he would have received with Doe Foster Mother #1.

11. This chain of events illustrates the difficulty in ensuring children receive the appropriate placements where a referral stoppage is in place. Based on

my experience and knowledge of foster care services, I believe that situations like the one faced by Doe Foster Child #1 will continue to arise as long as DHS continues its policy of refusing placements with Catholic Social Services. I am aware from other agencies that they have received numerous placements of children who, in normal circumstances, would have been referred to Catholic Social Service families as a preferred placement. There could be countless other unknowable referrals to other agencies that have sent foster children away from placements in their best interest.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 13, 2018.


James Black