No. 03-08-235-CV

IN THE THIRD COURT OF APPEALS

AUSTIN, TEXAS

IN RE: SARA STEED, et al.
RELATORS

Original Proceeding from the 51st Judicial District, Schleicher County, Texas

EMERGENCY MOTION FOR STAY PENDING REVIEW OF PETITION FOR WRIT OF MANDAMUS

ORAL ARGUMENT REQUESTED

Robert W. Doggett
State Bar No. 05945650
Texas RioGrande Legal Aid, Inc.
4920 N. IH-35
Austin, Texas 78751
Tel. (512)374-2725
Fax (512)447-3940

Attorney for Relators

No. _____

IN THE THIRD COURT OF APPEALS

AUSTIN, TEXAS

IN RE: SARA STEED, et al.
RELATORS

Original Proceeding from the 51st Judicial District, Schleicher County, Texas

EMERGENCY MOTION FOR STAY PENDING REVIEW OF PETITION FOR WRIT OF MANDAMUS

ORAL ARGUMENT REQUESTED

Robert W. Doggett
State Bar No. 05945650
Texas RioGrande Legal Aid, Inc.
4920 N. IH-35
Austin, Texas 78751
Tel. (512)374-2725
Fax (512)447-3940

Attorney for Relators

IDENTITY OF PARTIES AND COUNSEL

Realtors:

Sara Steed, Carlene Jessop, Kathryn W. Jeffs, Patricia Johnson, Nancy J. Barlow, Faith Ann Jessop, Loretta Jessop, Elizabeth Jessop, Dora Mae Harlow, Amy Holm Barlow, Merilyn Allred, Amy Holm Barlow, Dora Mae Barlow, Martha Barlow, Merilyn Barlow, Nancy J. Barlow, Viola Barlow, Martha Emack, Ruth Edna Fischer, Lenora Harker, Jeanetta, Jeffs, Kathryn Jeffs, Vicki Nielsen, Carlene Jessop, Cynthia Joy Jessop, Elizabeth Jessop, Faith Ann Jessop, Irene Julia Jessop, Loretta Jessop, Lori Jessop, Neola Jessop, Ruth Eliza Jessop, Alice Johnson, Karen Johnson, Patricia Johnson, Sylvia E. Johnson, Lorene Keate, Linda Musser, Linda Keate, Lucille Nielsen, Sarah Nicholson, Audrey Richter, Rosinith Jessup, Fawn Steed, Jennifer Steed, Leona Steed, Zavenda Steed, and Josephine Johnson.

Respondent:

Honorable Judge
Barbara Walthers
sitting for
51st District Court
Schleicher County, Texas

Counsel for Relators:

Robert W. Doggett
State Bar No. 05945650
Texas RioGrande Legal Aid, Inc.
4920 N. IH-35
Austin, Texas 78751
Tel. (512)374-2725
Fax (512)447-3940

Real Party in Interest:

Department of Family and Protective Services

Counsel for Real Party in Interest:

Gary Banks
Greg Abbott
Attorney General for the State of Texas
300 West 15th St.
Austin, Texas 78701

TABLE OF CONTENTS

INDEX OF AUTHORITIES

UNITED STATES SUPREME COURT CASES

TEXAS SUPREME COURT CASES

TEXAS APPELLATE COURT CASES

STATUTES

IN THE THIRD COURT OF APPEALS

AUSTIN, TEXAS

IN RE: CARLENE JESSOP, et al.
RELATORS

Original Proceeding from the 51st Judicial District, Schleicher County, Texas

EMERGENCY MOTION FOR STAY PENDING REVIEW OF PETITION FOR WRIT OF MANDAMUS

TO THE HONORABLE COURT OF APPEALS:

Unless this Court acts immediately, hundreds of mothers will be separated from their young children in plain violation of federal and Texas law. Mothers need this Court, by mandamus, to order a district judge to simply hold the hearing required by Tex. Fam. Code § 262.201 before issuing temporary possession orders. The district court held only a group hearing without taking evidence as to individual children and their households other than they exist, and as a matter of law, the hearing held by the district court cannot qualify as the "full adversary hearing" guaranteed to mothers before temporary orders are issued. Relators merely seek a stay so that appropriate hearings can be held.

I. STATEMENT OF THE CASE

Relators are mothers of children taken into custody by the Texas Department of Family and Protective Services ("Department" or "DFPS") two weeks ago in Eldorado, Texas. Relators have been allowed access to their children by the Department, but unless this Court acts now the Department intends to terminate this access, separate these mothers from their children (some of them still breastfed) and send them to cities all over Texas (dividing siblings in some cases).

Relators bring this original action to prevent the district court from changing the status quo as to possession of the children until it holds the hearing required by Tex. Fam. Code § 262.201. While there was a "hearing" that awarded custody to the Department, the trial court received no evidence regarding any of the children of Relators or their households except for providing a partial list of the children and their households that may have similar religious beliefs. The Department intends to imminently separate mothers from their children (including babies who are still being breastfed) and split up siblings of the same family (e.g., Lead Relator, Sara Steed, is 36 years and has six boys and girls, one of whom is six months old and breastfed. Her children are to divided up between Waxhachie, Waco, and Houston today or tomorrow).

Relators are requesting emergency relief from this Court today because the children are to be immediately separated from Relators by the Department. Relators are merely asking the Court on an emergency basis to keep these children near their prior homes and mothers, and continue to allow these mothers have access to their children while they are in state custody pending a review of their petition pursuant Rule 52.10 of the Texas Rules of Appellate Procedure.

II. STATEMENT OF JURISDICTION

This court has jurisdiction over this petition for writ of mandamus under Section 22.221(b) of the Texas Government Code.

III. ISSUE PRESENTED

Whether the trial court has authority to enter temporary orders without holding the hearing that meets the standards specified in Tex. Fam. Code § 262.201.

IV. STATEMENT OF FACTS

1. From April 4 through April 8, 2008, the State of Texas, through the Department of Family and Protective Services ("Department" or "DFPS"), took emergency custody of approximately 416 children from their homes in Eldorado, Texas. (Department's Chronology and Status Report, Exhibit 1.)[1] Many of these children were eventually moved to the San Angelo Coliseum and Relators were allowed to stay with them and care for them while in the Department's custody.

2. On or about April 7, 2008, the Department filed a series of lawsuits seeking emergency temporary managing conservatorship over the children. The 51st District Court (Barbara L. Walther sitting) entered an ex parte order appointing the Department temporary managing conservatorship.

3. An adversary "hearing" occurred on April 17 and April 18, 2008, and the trial court left DFPS as the temporary conservator of the children for the duration of the suit. (Order, Exhibit 2.)

[1] The investigation was initiated after receiving a call over the weekend of March 29, 2008. (Department's Chronology, Exhibit 1.) Upon investigation, on April 4th CPS took possession of 18 girls concluding they were abused or in imminent risk of future abuse. Thirty-four others were taken in for questioning that day, and another 85 were taken that night. (Exhibit 1.) The remainder were taken over the next four days. More have since been added bringing the total to 437 according to the Department.

4. Prior to the hearing, few Relators if any received documents or pleadings related to the case (e.g., citation, notice of removal, etc.), and were not named in the pleadings on file, nor were their children.[2] The only "notice" of the lawsuit recently discovered by Relators is a blanket citation by publication in the *Eldorado Success* to "All unknown parents and any person claiming to be a parent of any one or more of the children removed fro the YFZ Ranch, Eldorado, Schleicher County, Texas, between April 4, 2008, and midnight on April 7, 2007." (Exhibit 4.) There is no cause number or hearing notice attached to that statement; the publication citation goes on to list the individual lawsuits filed in which most of our Relators are not named.

5. Many Relators were not physically able to be present for the hearing because of the limited amount of room available in the courtroom which was taken up by press, CASA advocates, and attorneys for ad litems and other respondents. Moreover, because of the rules established by the Department, Relators were not allowed to leave their children who were being held in custody and return, thus, many did not attend the hearing the first day. The second day of the hearing (April 19) the trial court would only permit Relators to leave the Coliseum and return if their attorneys would personally pick them up and return them.

6. Relators, who were staying at the Coliseum with their children under 5, were not even permitted to watch the proceedings on closed-circuit television.

---

[2] The Department and trial court were notified of this failure and the trial court indicated the Department could amend its pleadings. After an investigation by Relators, the pleadings have not been amended to the best of Relators' knowledge. When Relators filed petitions for habeas corpus for this failure they were denied by the trial court without hearing on April 22, 2008. It is unclear the reason for the denial and the Department has not provided an explanation or an update; meanwhile the Department will not authorize the release of these children and intends to separate them from their mothers.

7. Relators' cell phones were removed by the Department (see Exhibit 1) and telephone access was not permitted from the Coliseum (and Relators still could not leave and return) – thus, Relators had no telephone access to contact their attorneys before, during or after the hearing. Counsel had limited opportunity for in person contact with their clients in the Coliseum.

8. Prior to the hearing the Department had denied the ability of attorneys to visit their clients (Relators) in the Coliseum, and afterwards forced counsel to wait hours to see their clients.

9. At the hearing, the State did not introduce any testimony identifying relators or their children. When documents were introduced, the Department had ONLY two copies of documents for review by opposing counsel, who numbered approximately 400. Many attorneys were unable to review documents that were being introduced to see whether their clients were mentioned or implicated. The trial court did not permit each attorney to cross-examine witnesses to even determine the allegations implicated their own clients.

10. Although specifically required by law, the Department had no evidence that any efforts, much less reasonable efforts, were made to eliminate or prevent the children's removal. There was no evidence any reasonable efforts were made to return the children to their home.

11. The two-page order entered by the trial court makes no specific findings as to any of the children or households and authorized placements across Texas. ("Order on Placement of Children" entered April 22, 2008, Exhibit 2.) It merely states that the children "should remain in the sole temporary managing conservatorship of the Department."

12. The Department has compiled a list of the children and their placements. ("Master List", Exhibit 3.)

13. The mothers of the removed children (now 437 of them) have been permitted to stay with their children in state custody located at Fort Concho and the Coliseum, in San Angelo, but now the Department has indicated that it intends to separate Relators from their children immediately.

V. ARGUMENT AND AUTHORITIES

A. Mandamus is Appropriate Remedy

Mandamus is appropriate relief from improperly entered temporary custody orders. *In Re Mata*, 212 S.W.3d 597, 603-04 (Tex.App.—Austin 2006) the Austin Court of Appeals stated:

> Because temporary orders in a suit affecting a parent-child relationship are not subject to interlocutory appeal under the family code and because there is a need to resolve issues related to child custody quickly, courts have held that mandamus is an appropriate vehicle to challenge a lack of jurisdiction in child custody matters. Further, mandamus may be used to challenge a temporary order that deprives a parent of the physical possession of her child.

In Re Mata, 212 S.W.3d 597, 603-04 (Tex.App.--Austin 2006) (citations omitted). *See also, In re Aubin*, 29 S.W.3d 199, 202 (Tex.App.-Beaumont 2000, orig. proceeding); *In re Derzapf*, 219 S.W.3d 327 (Tex. 2007); *In re Mays-Hooper*, 189 S.W.3d at 778; *Little v. Daggett*, 858 S.W.2d 368, 369 (Tex. 1993) (granting mandamus relief to vacate trial court's temporary order granting visitation in suit to establish paternity); *Post v. Garza*, 867 S.W.2d 88, 89 (Tex.App.–Corpus Christi 1993, orig. proceeding) (mandamus available to review temporary orders entered in divorce proceeding); *In re Lemons*, 47 S.W.3d 202, 203-204 (Tex.App.–Beaumont 2001, orig. proceeding) (mandamus available to review temporary orders entered in a suit affecting the parent child relationship).

B. Parental Custody is a Fundamental Liberty and Presumption Favors the Parent

The United States Supreme Court recognizes parental custody as a fundamental liberty interest. In *Troxel v. Granville*, 530 U.S. 57, 65 (2000), the Supreme Court stated that "the interest of parents in the care, custody, and control of their children [ ] is perhaps the oldest of the fundamental liberty interests recognized by" the courts. *In re Mata*, 212 S.W.3d 597, 604-05 (Tex. App. Austin 2006) quoting *Troxel v. Granville*, 530 U.S. 57, 65 (2000).

Because parental custody is a fundamental liberty issue, there is a presumption that the parent retain custody of the child. Tex. Fam. Code § 105.001(c). A mother's rights to "the companionship, care, custody, and management" of her child are constitutional interests "far more precious than any property right." *Santosky v. Kramer*, 455 U.S. 745, 758-59, 102 S.Ct. 1388, 71 L.Ed.2d 599 (1982) (quoting *Lassiter v. Department of Soc. Servs.*, 452 U.S. 18, 27, 101 S.Ct. 2153, 68 L.Ed.2d 640 (1981)); see *Vela*, 17 S.W.3d at 759.

"The Due Process Clause does not permit a State to infringe on the fundamental rights of parents to make childrearing decisions simply because a state judge believes a 'better' decision could be made." *Troxel v. Granville*, 530 U.S. 57, 120 S.Ct. 2054, 2064, 147 L.Ed.2d 49 (2000). "Accordingly, so long as a parent adequately cares for his or her children (i.e., is fit), there will normally be no reason for the State to inject itself into the private realm of the family to further question the ability of that parent to make the best decisions concerning the rearing of that parent's children." *Troxel v. Granville*, 530 U.S. at ----, 120 S.Ct. at 2061, 147 L.Ed.2d at 58.

C. Trial Court Failed to Conduct Sufficient Hearing Required By Law, and Abused Discretion by Entering Order Without Evidence

The Department sought an order pursuant to Section 262.201, Family Code which states in part:

> Unless the child has already been returned to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian entitled to possession and the temporary order, if any, has been dissolved, a full adversary hearing shall be held not later than the 14th day after the date the child was taken into possession by the governmental entity.
>
> Tex. Fam. Code § 262.201(a).

While the trial court conducted a hearing within the deadline, it plainly did not conduct a sufficient hearing. Before the trial court could maintain custody with the Department, a three-prong test must have been met by a preponderance of the evidence:

> (b) At the conclusion of the full adversary hearing, the court shall order the return of the child to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian entitled to possession unless the court finds sufficient evidence to satisfy a person of ordinary prudence and caution that:
>
> (1) there was a danger to the physical health or safety of the child which was caused by an act or failure to act of the person entitled to possession and for the child to remain in the home is contrary to the welfare of the child;
>
> (2) the urgent need for protection required the immediate removal of the child and reasonable efforts, consistent with the circumstances and providing for the safety of the child, were made to eliminate or prevent the child's removal; and
>
> (3) reasonable efforts have been made to enable the child to return home, but there is a substantial risk of a continuing danger if the child is returned home.
>
> Tex. Fam. Code § 262.201(b).

The third prong of the test "substantial risk of a continuing danger" has also been described in the Family Code:

> In determining whether there is a continuing danger to the physical health or safety of the child, the court may consider whether the household to which the child would be returned includes a person who:
>
> (1) has abused or neglected another child in a manner that caused serious injury to or the death of the other child; or
>
> (2) has sexually abused another child.
>
> Tex. Fam. Code § 262.201(d).

In essence, unless the trial court finds there was a danger to the physical health or safety of the child, and that there is a substantial risk of continuing danger, the children must not be separated. While the trial court heard evidence regarding approximately 20 children and their households on April 18th and 19th, the trial court heard no evidence regarding Relators' children or their households except for their mere existence. *See In re Cochran*, 151 S.W.3d 275, 280 (Tex.App.-Texarkana 2004) (finding insufficient evidence in the record to support the trial court's finding of danger to the child under Section 262.201(b)(1)).

As a matter of law, the trial court could not have made the requisite findings of fact from the evidence that it heard. "Although a trial court need not make the same findings on temporary orders as it must in making a final order of termination, see Tex. Fam.Code Ann. §§ 105.001, 161.001 (West Supp.2005), neither should the court ignore the probable arrangements that will be imposed on final hearing in considering temporary orders. See *Aubin*, 29 S.W.3d at 203; see also Tex. Fam.Code Ann. § 153.131I; *RE MATA* 212 S.W.3d 597, 605 Tex.App.-Austin, 2006.

> The Texas Supreme Court has acknowledged that mandamus may issue where the legal process itself would violate the relator's

> constitutional rights. *Tilton v. Marshall*, 925 S.W.2d 672, 682 (Tex.1996). Absent a finding, supported by evidence, that the safety and welfare of the children is significantly impaired by the denial of the Burks' visitation, Aubin's decision regarding whether the children will have any contact with the Burks is an exercise of her fundamental right as a parent. That right is shielded from judicial interference by the Due Process clause of the United States Constitution. Texas Family Code Section 105.001, is unconstitutional as applied to Aubin in the trial court's June 15, 1998, and June 29, 1998, temporary restraining orders and the trial court's November 2, 1998, temporary order.

In re Aubin, 29 S.W.3d 199, 203-04 (Tex.App.-Beaumont, 2000) ("Although there is a disputed fact issue regarding her fitness, there has been no finding that would support the intrusion of the trial court on the liberty interest recognized in *Troxel*.")

VI. APPLICATION FOR EMERGENCY STAY

Relators emphasize that they only seek to maintain the status quo (current contact with all of their children while the children are also in state custody) at this time while this Court resolves the important constitutional and statutory questions raised by the State's actions in this case. Relators will cooperate with the court in seeking the most prompt possible resolution of this matter.

The State can articulate no harm comparable to that faced by the mothers, so the balance of harm favors the stay sought by Relators.

VII. PRAYER

Plaintiffs pray that the Court grant them the following relief:

a. consider this motion immediately;

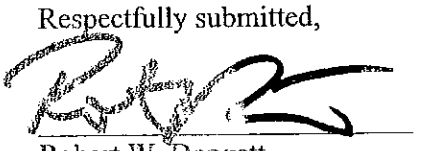
b. immediately stay all district court orders affecting the status quo pending appellate consideration of this motion;

c. upon consideration of this motion, stay all district court orders affecting the stats quo until till the district court complies with the mandamus relief contained in this Court's order

d. order the district court, by mandamus, to hold adequate individualized hearings as required by Tex. Fam. Code § 262.201 and make all findings required by statute in each case before entering any further temporary custody orders; and

e. award all other relief as the Court deems just and proper.

Respectfully submitted,



Robert W. Doggett
State Bar No. 05945650
Texas RioGrande Legal Aid, Inc.
4920 N. IH-35
Austin, Texas 78751
Tel. (512)374-2725
Fax (512)447-3940

Attorney for Relators

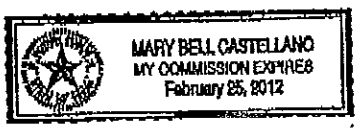
VIII. VERIFICATION

STATE OF TEXAS

COUNTY OF BREWSTER

Before me, came Julie Balovich, who being a person known to me stated that she has read the foregoing petition and that the facts contained therein and copies of documents attached are true and correct.

SWORN TO BEFORE ME ON THIS 23rd day of April, 2008.



NOTARY PUBLIC, STATE OF TEXAS

IX. NOTICE AND SERVICE

Notice of the filing of this action and application for a stay were given to local counsel for the Department via telephone and facsimile or hand delivery on April 23, 2008.

CERTIFICATION

I hereby certify that I called Gary Banks, attorney for the Department of Family and Protective Services in this matter, at 325-657-7392 and left a message regarding the filing of a petition for writ of mandamus and request for emergency stay this day. I also left a message with his legal assistant. My office is currently faxing a copy of the filing to 432-684-2909, and will overnight him a copy of the filing to 622 S. Oaks, Suite L, San Angelo, Texas 76903.

Robert W. Doggett

EXHIBIT 1

TEXAS
Department of Family and Protective Services

Web version
Font Size:

About DFPS

4/22/2008

Overview of the Investigation – Eldorado, Texas

As of April 15, 2008

Chronology and Status Report

March 29-31

Over the weekend, a 16 year-old girl called a domestic violence shelter and reported that she had been sexually and physically abused in the past by her 49-year old "husband." The girl reported living at the YFZ (Yearn for Zion) Ranch, an outpost of the Fundamentalist Church of Jesus Christ of Latter Day Saints, in Eldorado, Texas. The shelter called in a report to SWI (Statewide Intake), the CPS Hotline, and CPS investigators were assigned to the case.

CPS contacted law enforcement and began working closely with the Department of Public Safety (DPS), the sheriff's office, the courts and other local officials.

Thursday, April 3

The Texas Rangers determined the timing of entering the compound, and late Thursday afternoon, law enforcement entered the compound. Once it was secured CPS investigators entered and began interviewing residents and children. CPS investigators were at the compound all night and into Friday.

Friday, April 4

CPS took temporary legal custody of 18 girls (ages 6 months to 17 years) after investigators concluded they had been abused or were in imminent risk of future abuse. Thirty-four other girls were transported from the compound to a civic center in Eldorado for further questioning to determine if they had been abused or were at risk of abuse.

That evening, another 85 children, and 46 adult women who wanted to accompany the children, were transported to the civic center.

Saturday, April 5

CPS continued interviewing the children at the civic center and the compound. CPS called upon 15 more special investigators from around the state to assist.

The Governor's Division of Emergency Management dispatched its Regional Incident Coordinator to the scene, activated the mass care plan, and began arranging for a larger shelter in San Angelo.

Sunday, April 6

All children and adults at shelters in Eldorado were moved to a centralized shelter in at the Ft. Concho complex in San Angelo. Including new arrivals from the FLDS compound there were 246 children and 93 women in DFPS care.

CPS continued to work with law enforcement to locate children at the compound and bring them to the shelters in San Angelo.

Monday, April 7

District Judge Barbara Walthers granted DFPS temporary legal custody of all 401 the children in the shelter in San Angelo, after it was concluded that some of these children had been sexually and physically abused and the rest are at risk of abuse if returned to their homes at this time. An adversarial hearing was set for April 17, 2008 to determine if the children should remain in DFPS conservatorship.

The HHSC, DFPS, and STAR Health program have been working to provide for all the medical and psychological needs of these children. Arrangements were being made for medical evaluations, counseling, and whatever treatment is appropriate.

DFPS began working to locate longer term foster care living arrangements to provide the children more structure and stability. The temporary shelter at the Fort Concho complex in San Angelo is near capacity.

TUESDAY, APRIL 8, 2008

CPS involvement in the operation at the compound itself is over. All the children who were living on the FLDS compound are now in CPS care.

15 more children were transported to the shelter last night, bringing the total number of children in state custody to 416 children. 139 women are at the shelters.

DFPS has now moved into the legal stage of this case.

Another shelter was opened in San Angelo and more than 100 children were moved into it in order to better meet their needs.

WEDNESDAY, APRIL 9, 2008

DFPS and other state agencies continued to work to supervise and provide for the needs of 416 children who removed from the Fundamentalist Latter Day Saints compound and placed in state custody. All the children, and 139 adult women, were housed in several shelters in San Angelo.

The Department of State Health Services is coordinating medical and mental health services for the children. Health clinics and screenings are being held. 12 cases of chicken pox were identified and those children and their families were isolated. They contracted the virus before arriving in state custody. So far the screenings indicate that the physical and mental health of the children is generally good.

FRIDAY, APRIL 11, 2008

Judge Barbara Walther ordered DFPS to keep all 416 children removed from the Fundamentalist Latter Day Saints compound in the San Angelo area until a hearing on April 17, 2008. Therefore, no children will be placed into foster care before the hearing and all will remain in shelters.

A number of state agencies are working together to make all the children as comfortable as possible, and to meet all their physical, medical and psychology needs while they are in San Angelo.

Including 139 women who are companying the children, the state is providing for 555 people in shelters at this time.

APRIL 12-13

Judge Barbara Walther ordered DFPS to confiscate the cell phones of the 139 women to prevent witnesses tampering and interference with the legal process.

The women and children are being housed in a collection of nearby shelters. They are all being provided wholesome food, a place to sleep, personal items they need, and medical care by a team of doctors and mental health professionals.

A number of the children arrived at the shelters already suffering from a variety of illnesses including chicken

pox, upper respiratory infections, ear infections, etc. Each is receiving the appropriate medical care.

MONDAY, APRIL 14

The children have been moved to a single large shelter at the San Angelo Coliseum, which provides more room and facilities for guests. With permission from Judge Barbara Walther, DFPS moved about two dozen teenage boys to a facility outside the area.

Adult women with very young children were provided the opportunity to remain at the shelter. The other women were given the choice to return to the Eldorado compound or to a safe place. This decision to separate the children was not made by CPS alone. DFPS sought counsel from the attorneys of the children, mental health professionals and others. The judge concurred that a partial separation is in the best interest of the children at this time.

TUESDAY, APRIL 15

Every step taken by CPS and the court has been done with the goal of doing what is best for the children, getting to the truth, and stopping abuse.

Children in the Coliseum and pavilion are adapting well to their new surroundings. About 400 women and children under the age of 5 are housed in the San Angelo Coliseum. About 100 older children are in the adjacent Wells Fargo Pavilion. About two dozen teenage boys are being housed in a licensed foster care facility outside the immediate area.

EXHIBIT 2

CAUSE NOS. 2779-2903

IN THE INTEREST OF	§	IN THE DISTRICT COURT OF
	§	
CHILDREN REMOVED FROM	§	SCHLEICHER COUNTY, TEXAS
	§	
YFZ RANCH	§	51ST JUDICIAL DISTRICT

ORDER ON PLACEMENT OF CHILDREN

1. The Court finds that on April 9, 2008, the Court entered an Order Regarding Placement (the "Placement Order"), which ordered the Department to maintain the physical presence of the children the subject of the above-referenced causes in the Court's judicial district.

2. The Court finds that on April 12, 2008, the Court entered an Order Lifting Certain Restrictions On Placement, which authorized the Department to proceed with placement of some of the children the subject of the above-referenced causes outside the Court's judicial district.

3. The Court finds that on April 17-18, 2008, the Court held an adversary hearing in the above-referenced causes pursuant to Section 262.201, TEXAS FAMILY CODE. The Court further finds that, at the conclusion of the adversary hearing, the Court found that that the children the subject of the above-referenced suits should remain in the sole temporary managing conservatorship of the Department.

4. The Court finds that the Department has a placement plan for the remaining children the subject of the above-referenced cause numbers at the locations listed on **Appendix "A"** attached hereto and incorporated herein by this reference for all purposes. The Court finds that allowing the Department to proceed with such placements would be in the best interest of the children the subject of this suit.

5. **IT IS, THEREFORE, ORDERED** that the restrictions contained in the Placement Order precluding the Department from placing any of the children outside this Court's judicial district is modified as set forth below:

   A. The Department may begin to transport to and place the children the subject of the above-referenced causes at the placements set forth on **Appendix "A"** at such time and under such circumstances as determined appropriate by the Department,

with such children to remain at such location or at such other locations approved by the Court.

B. This Order On Placement Of Children shall take effect immediately.

SIGNED: April 22, 2008

JUDGE PRESIDING

Placements

When looking to place any child in foster care, consideration is given to their age, member of a sibling group, and any special needs they have. Selection of placements for these children was based on the needs of the children to remain together and available capacity.

The majority of the placements identified below have the ability to keep these children separate from the other children currently placed at the facility. Based on the specialized needs of this population information has already been shared about their background and culture with the facilities where they have been placed. Additionally, CPS will be arranging a meeting with all the providers and staff to discuss emerging needs of the children. Support will also be provided from the Administration of Children and Families to provide any additional resources that may be needed.

Educational needs will be assessed and appropriate strategies will be developed to ensure the children receive any needed educational and developmental services. Medical records will be provided upon placement.

Identification of subsequent placements for children placed in emergency shelters will be identified. Discussions will also be held with emergency shelter's regarding their willingness to provide longer-term care.

Guidelines:

- Minor mothers will be placed with their babies.
- Pregnant minors will be placed in the same placement with minor mothers (and their babies).
- Children under 12 months will be placed in foster homes together with their siblings who are under 5 years.
- Every attempt will be made to place siblings together.
- Boys 8 and older will be placed in the same setting as previously placed older boys.

Region 1

- **Cal Farley's**
- **Presbyterian Home in Amarillo**

Region 2/9

- **High Sky Children's Ranch – Emergency Shelter**
- **Hendricks Home of Abilene**

Region 3

- **Assessment Center of Tarrant County/Catholic Charities**
- **Presbyterian Home in Waxahachie**

Region 6

- **Kidz Harbor**

APPENDIX A