

GOVERNMENT & POLITICS DECEMBER 5, 2015 1:28 PM

Johnson County judge: Kansas agency conducted 'witch hunt' against lesbian foster parents

HIGHLIGHTS

Recently released 2013 ruling has harsh words for Kansas Department for Children and Families

Judge said department didn't act in child's best interest by removing him from lesbian couple

DCF secretary has said agency doesn't show preference to heterosexual couples





BY BRYAN LOWRY

blowry@wichitaeagle.com

A 2013 sealed court ruling that was distributed to reporters Friday casts doubt on the assertion by officials with the Kansas Department for Children and Families that the agency does not weigh sexual orientation in foster care and adoption cases.

Johnson County District Judge Kathleen Sloan removed a 16-month-old child from DCF custody after finding the agency had not acted in the child's best interest when it took him from lesbian foster parents he had lived with since he was 3 days old and recommended that he be placed with a family that initially had declined to adopt him even though it had adopted his half siblings.

The DCF placed "their concerns for the 'gay/lesbian' classification above concerns for the child's best interest, contrary to established law," Sloan wrote.

Emails from DCF officials cited in the opinion show that agency officials sought to have the women's foster care license revoked and talked about needing a negative psychological evaluation to support their case.

"In essence, DCF conducted a 'witch hunt' and made a concerted, purposeful effort ... to obtain negative information ... because they are homosexual women in a committed relationship," Sloan wrote.

DCF Secretary Phyllis Gilmore has repeatedly said the agency doesn't show preference to heterosexual couples as foster and adoptive parents over gays and lesbians in committed relationships. She said last week that a proposed audit would prove the claims untrue.

DCF spokeswoman Theresa Freed said DCF had no comment on the 2013 ruling.

The 37-page ruling documents the steps the DCF took after social workers, a guardian ad litem and DCF officials met on Feb. 2, 2012, and recommended that it was in the best interest of the baby that he be adopted by one of the lesbian foster parents.

In March 2012, DCF attorney Paula Hurt sent an email to DCF regional director Michael Myers and assistant regional director Marcia Simoneau, noting the sexual orientation of the foster parent.

"You should be aware that adoptive resource is one member of a lesbian couple who have been together 17 years," the email stated.

Twenty-eight minutes later, Simoneau forwarded the email to Gilmore, marking it high priority and adding that it seemed that the majority of infants not placed with relatives were being adopted by gays and lesbians.

The DCF began an intense investigation of the couple, according to the court document, seeking to have their foster care licenses revoked and seeking to deny the adoption on the grounds that one of the women had committed welfare fraud.

However, Sloan noted that welfare fraud is not considered a prohibitive offense for adoption. During that same time period, she wrote, the DCF allowed a former methamphetamine addict, who had been convicted of assault, battery, theft and forgery and had served time in prison, to adopt a grandchild.

An email exchange between Myers and other DCF officials in June, quoted in the opinion, stated that Gilmore considered the case to be the "Highest Priority" and that she was pushing for the child to be moved into a home with the adoptive "parents of the siblings ASAP."

Earlier that month, Myers emailed Simoneau and another DCF official that "we need a strong psych and medical case against them," referring to the lesbian couple. When a psychologist did not see any issues with their parenting ability, Myers and Simoneau "second-guessed" the assessment despite not being medical professionals themselves, the opinion said.

The Kansas Department of Health and Environment performed an emergency inspection of the couple's home at the DCF's request but did not consider revoking the foster care home license, according to the judge. Gov. Sam Brownback signed an executive order this year so that the responsibility of licensing foster care homes is now in the hands of the DCF, the agency that administers the program.

In the ruling, Sloan noted that the DCF put great effort toward persuading the adoptive parents of the baby's half siblings to agree to take in the child "while simultaneously trying to obtain enough negative information ... to be able to justify removing him from the only home he had ever known."

"They had to get more. They asked for psychological evaluations. They did not like what the expert had to say. They thought she (the foster parent) was overmedicated. They did not like the response they got from doctors," Sloan said in the ruling. "They went to her house. They did not like what they saw, but even Ms. Simoneau noted she was 'unsure' if she saw any safety concerns."

Rep. Jim Ward, a Wichita Democrat, said in an email Friday that "the abuse of power outlined in this opinion is grounds for termination of Secretary Phyllis Gilmore. I call on the governor to step up for the children of Kansas and end the systematic discrimination of non-traditional families."

Ward has called for an audit of the DCF to determine whether it is discriminating against same-sex couples. A legislative committee will vote on his request this coming week.

The contents of the sealed opinion were first reported by the Kansas Health Institute's nonprofit news service last week. A redacted version that obscures the names of the children and families involved in the case was disclosed Friday after two weeks of media coverage about claims of anti-gay discrimination by the DCF.

Myers, now the DCF's director of prevention and protection services, announced his retirement Friday. Freed, the DCF spokeswoman, said that Myers would leave at the end of the year and that his departure had nothing to do with the 2013 court ruling being made public Friday.



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