

No. 1-16-2471

FILED APPELLATE COURT
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**IN THE ILLINOIS APPELLATE COURT
FIRST JUDICIAL DISTRICT**

STEVEN M. RAYD
CLERK OF COURT

ILLINOIS COLLABORATION ON YOUTH, <i>et al.</i>)	
)	
Plaintiffs-Appellants,)	On appeal from the Circuit Court
)	of Cook County, Illinois, County
v.)	Department, Chancery Division,
)	No. 16-CH-6172.
JAMES DIMAS, SECRETARY OF)	
THE ILLINOIS DEPARTMENT OF HUMAN)	The Honorable
SERVICES, in his official capacity, <i>et al.</i> ,)	RODOLFO GARCIA,
)	Judge Presiding.
Defendants-Appellees.)	

APPELLANTS' MOTION TO EXPEDITE APPEAL

Plaintiffs-Appellants bring this motion for an expedited appeal pursuant to Supreme Court Rule 311(b), and attach the affidavit of Nora Collins-Mandeville, and state as follows:

1. The plaintiffs who bring this appeal are 61 social service organizations that have State contracts to serve the most vulnerable citizens of the State. The roster of the plaintiffs is enough to show the wide range of these services. The plaintiff organizations, which that come from all over the state, serve the homeless and give medical and other aid, counsel and care for runaway youth, operate diversion programs that keep troubled young people out of jail, treat victims of sexual assault, and run programs to keep seniors living in their homes and out of institutions. They constitute the very infrastructure for providing State-funded human services.

2. Because of the budget impasse between the General Assembly and the Governor, many of the plaintiff organizations are providing these services currently without funds. Since the beginning of fiscal year 2017—that is, July 1, 2016—various plaintiff organizations have submitted vouchers month after month without any payment. Previously, in the prior fiscal year

of 2016, the plaintiff organizations received no money at all in those twelve months. They have had to lay off professional staff, cut back the programs described above and given up or lost important relationships with their client populations.

3. Quite belatedly, as described in the opening brief that plaintiffs filed on December 20, 2016, in this appeal, there was payment of the services rendered contracts for fiscal year 2016. But with no funding for the first six months of fiscal year 2017 many of the plaintiff organizations are in the same position as before. Nor is money appropriated under the vast majority of these contracts for any work after January 1, 2017. See Affidavit of Nora Collins Mandeville, attached hereto. Accordingly, through the coming year, many of these organizations risk financial collapse. Others will cut back services and lay off staff again. The clients who need these services will go without them.

4. In the briefing below in the Circuit Court, the defendant Governor and defendant agency heads conceded that plaintiffs are suffering irreparable injury from the way in which the public business is being conducted as a result of the budget impasse.

5. Plaintiffs respectfully submit that no other case pending in the courts of this State raises legal issues of a greater or more urgent nature than those in this appeal. Plaintiffs in this appeal challenge the operation of state government without a budget. Specifically, in Count I, plaintiffs contend that the defendant Governor and agency heads have exceeded the constitutional powers of their office in that they voluntarily enter and continue contracts which they have blocked the General Assembly from funding. Under the "officer exception" to sovereign immunity, plaintiffs contend that Illinois courts may enjoin the defendants from doing the public's business in such a manner, and require specific performance of the obligation of timely payment in these contracts. In Count II, plaintiffs contend that the very lack of a budget,

and the so-called expedient of P.A. 99-524, otherwise known as the Stop Gap Spending Bill, as well as other acts, have unlawfully impaired the obligation of contracts, in violation of Article I, section 16 of the Illinois Constitution. There was no budget in fiscal year 2016, and none to date in fiscal year 2017, and none likely—many observers say—in fiscal year 2018 as well. Nothing could be more urgent or important to the public welfare than to determine the legal rights of those who contract with the State and provide crucial human services while the State continues without a budget indefinitely.

6. One need only give a cursory review to the arguments set forth in the opening brief to accept that this case raises issues that are not only of enormous import but require an expedited resolution. Whether plaintiffs prevail or not—whether this Court reverses or affirms the dismissal below—at least the plaintiffs will know what they can expect. The plaintiffs who provide these human services respectfully seek an expedited ruling on this appeal.

7. While it is routine for the Attorney General to seek extensions of time, and this may occur in this case as well, plaintiffs submit that the briefing of these issues took place below on the motions to dismiss, and the record here is limited to the pleadings. It is not onerous for the defendants to engage in an expedited appeal since it is improbable that the briefs submitted by the defendants will differ in any significant way from the briefs that defendants have already filed.

8. Pursuant to Illinois Appellate Court First District Rule 15, Plaintiffs state that they already filed their opening brief on December 20, 2016 and that the complete record has already been prepared and has been provided to Defendants-Appellees for the purpose of preparing their response brief.

WHEREFORE, plaintiffs request that this Court order the expediting of this appeal, and order that there not be any extensions of time to the briefing schedule, in light of the public interest in the resolution of the constitutional issues raised in this case.

Dated: December 23, 2016

Respectfully submitted,


Counsel for Plaintiffs-Appellants

Thomas H. Geoghegan
Michael P. Persoon
Sean Morales-Doyle
Despres, Schwartz & Geoghegan, Ltd.
77 West Washington Street, Suite 711
Chicago, Illinois 60602
(312) 372-2511

Certificate of Service

The undersigned attorney certifies that on December 23, 2016 he caused the foregoing Appellants' Motion to Expedite Appeal and the accompanying affidavit to be filed with the Clerk of the Illinois Appellate Court and a copy to be served by email to:

Richard S. Huszagh
Assistant Attorney General
100 W. Randolph St., 12th Floor
Chicago, Illinois 60601
CivilAppeals@atg.state.il.us
rhuszagh@atg.state.il.us

Dated: December 23, 2016

By: Thomas H. Geoghegan MS.
One of Plaintiffs' Attorneys

Thomas H. Geoghegan
Michael P. Persoon
Sean Morales-Doyle
Despres, Schwartz & Geoghegan, Ltd.
77 West Washington Street, Suite 711
Chicago, Illinois 60602
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AFFIDAVIT OF NORA COLLINS-MANDEVILLE

Nora Collins-Mandeville on oath states:

1. I am the policy director of Illinois Collaboration on Youth (ICOY), which conducts policy advocacy on behalf of youth and risk and the network of providers who serve them.

2. ICOY is a plaintiff-appellant in this action.

3. In my role as policy director of ICOY, which works collaboratively with many other social service providers in Illinois, I have become familiar with the work of many of the other plaintiff organizations. In addition, since this litigation began, I have had occasion to speak with leaders from the other plaintiff organizations about their work and the impact that the ongoing budget impasse has had on them.

4. The plaintiff organizations, which that come from all over the state, provide a wide range of human services, including but not limited to serving the homeless and giving medical and other aid, counseling and caring for runaway youth, operating diversion programs

that keep troubled young people out of jail, treating victims of sexual assault, and running programs to keep seniors living in their homes and out of institutions.

5. Though each of the plaintiff organizations has contracts requiring that they be paid by the State for provision of these services, due to the budget impasse between the General Assembly and the Governor, the plaintiff organizations with some exceptions are currently providing many of these services without full, sufficient, or in some cases, any funding from the State.

6. Furthermore, as of January 1, 2017, there is no money appropriated for the vast majority of these contracts, which in nearly all cases run through June 30, 2017.

7. During the proceedings in the circuit court, ICOY undertook a survey of the plaintiff providers that have joined the above captioned lawsuit.

8. ICOY sent inquiries to the other ninety-seven plaintiffs (only some of which joined this appeal) to provide information on their current financial condition.

9. As of July 2016, most of the respondents had used lines of credit and cash reserves in order to cope with the State's failure to make timely payment. Many of the respondents were facing the possibility of not being able to make payroll in the near future, and some were facing complete shutdown.

10. Though the State began making payments to many of the organizations for fiscal year 2016 in the months that followed that survey, most of those payments were made from appropriations for the first half of fiscal year 2017 made in the so-called "Stop Gap Spending Bill," P.A. 99-524, which were reallocated to fiscal year 2016 pursuant to discretionary language in the bill.

11. As a result, many of the plaintiff organizations - again, with some exceptions - are no longer receiving payment or have yet to be paid for services in fiscal year 2017, and some of the plaintiff organizations have still not received payment for services on contracts in fiscal year 2016

12. Not only have the payments made for fiscal year 2016 depleted the funds in the "Stop Gap" appropriations made for the first half of fiscal year 2017, but except in a handful of contracts held by plaintiffs, the General Assembly has made no appropriations at all—not even a "Stop Gap" to cover services to be rendered after January 1, 2017

13. Without certainty as to what sort of payment they can expect, ICOY and the other plaintiff organizations are left with very difficult decisions about what human services they can continue to provide moving forward.

14. Even if Plaintiffs lose this appeal, an expedited ruling will help ICOY and the other plaintiff organizations plan. If they know that they cannot expect any payment moving forward, we will all have to make tragic decisions about what services to cut. But, at least we will be able to allocate our resources appropriately, rather than investing in programs that will ultimately prove unsustainable at the expense of others that we may be able to sustain.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements in this affidavit are true and correct.

DATED: December 23, 2016


Nora Collins-Mandeville