

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

Nos. 11-3684 and 11-3685

FRANKLIN BENJAMIN, by and through his next friend, Andre Yock;
RICHARD GROGG and FRANK EDGETT, by and through their next friend, Joyce
McCarthy; SYLVIA BALDWIN, by and through her next friend, Shirl Meyers;
ANTHONY BEARD, by and through his next friend, Nicole Turman,
on behalf of themselves and all others similarly situated

v.

DEPARTMENT OF PUBLIC WELFARE OF THE COMMONWEALTH OF
PENNSYLVANIA; SECRETARY OF PUBLIC WELFARE OF THE
COMMONWEALTH OF PENNSYLVANIA

CRAIG SPRINGSTEAD, by and through his father and guardian, Bertin Springstead;
MARIA MEO, by and through her mother and guardian, Grace Meo;
DANIEL BASTEK, by and through his father and guardian, John Bastek;
MICHAEL STORM, by and through his guardian, Polly Spare;
BETH ANN LAMBO, by and through her father and guardian, Joseph Lambo;
RICHARD KOHLER, by and through his sister and guardian, Sara Fuller;
MARIA KASHATUS, by and through her father and guardian, Thomas Kashatus;
WILSON SHEPPARD, by and through his brother and next friend Alfred Sheppard,

Appellants in No. 11-3684 *(Pursuant to Fed. R. App. 12(a))

DIANE SOLANO, by and through her brother and guardian Carl A. Solano,

Appellant in No. 11-3685 *(Pursuant to Fed. R. App. 12(a))

On Appeal from the United States District Court
for the Middle District of Pennsylvania
(D.C. Civil No. 1-09-cv-01182)
District Judge: Hon. John E. Jones, III

Argued October 3, 2012

BEFORE: FUENTES, FISHER and COWEN, Circuit Judges

JUDGMENT

This cause came on to be considered on the record on appeal from the United States District Court for the Middle District of Pennsylvania and was argued on October 3, 2012. On consideration whereof, it is hereby

ORDERED and ADJUDGED by this Court that the order of the District Court entered on August 16, 2011 be and the same hereby is vacated insofar as it denied Appellants' motions to intervene as of right in the remedy stage of this litigation. It is further ORDERED and ADJUDGED by this Court that the order of the District Court entered on September 2, 2011 granting final approval to the parties' settlement agreement be and the same hereby is vacated. This matter is remanded to the District Court with specific instructions to grant Appellants' motions to intervene as of right in the remedy stage of this litigation as well as to permit Appellants, as proper intervenors, to challenge the settlement agreement and to seek decertification of the class. All of the above in accordance with the opinion of this Court. Appellants and Appellees to bear their own costs.

ATTEST:

/s/Marcia M. Waldron
Clerk

DATED: December 12, 2012

OFFICE OF THE CLERK

MARCIA M. WALDRON

CLERK



UNITED STATES COURT OF APPEALS

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December 12, 2012

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RE: Franklin Benjamin, et al v. PA Department of Public Welfar, et al
Case Number: 11-3684
District Case Number: 1-09-cv-01182

ENTRY OF JUDGMENT

Today, **December 12, 2012** the Court entered its judgment in the above-captioned matter pursuant to Fed. R. App. P. 36.

If you wish to seek review of the Court's decision, you may file a petition for rehearing. The procedures for filing a petition for rehearing are set forth in Fed. R. App. P. 35 and 40, 3rd Cir. LAR 35 and 40, and summarized below.

Time for Filing:
14 days after entry of judgment.
45 days after entry of judgment in a civil case if the United States is a party.

Page Limits:
15 pages

Attachments:

A copy of the panel's opinion and judgment only. No other attachments are permitted without first obtaining leave from the Court.

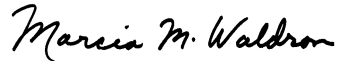
Unless the petition specifies that the petition seeks only panel rehearing, the petition will be construed as requesting both panel and en banc rehearing. If separate petitions for panel rehearing and rehearing en banc are submitted, they will be treated as a single document and will be subject to a combined 15 page limit. If only panel rehearing is sought, the Court's rules do not provide for the subsequent filing of a petition for rehearing en banc in the event that the petition seeking only panel rehearing is denied.

A party who is entitled to costs pursuant to Fed.R.App.P. 39 must file an itemized and verified bill of costs within 14 days from the entry of judgment. The bill of costs must be submitted on the proper form which is available on the court's website.

A mandate will be issued at the appropriate time in accordance with the Fed.R.App.P. 41.

Please consult the Rules of the Supreme Court of the United States regarding the timing and requirements for filing a petition for writ of certiorari.

Very truly yours,

A handwritten signature in black ink that reads "Marcia M. Waldron". The signature is written in a cursive, flowing style.

Marcia M. Waldron, Clerk

By: Maria, Case Manager
267-299-4937