

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

GERALD BUSH : CIVIL ACTION
 :
 v. :
 :
 DEPARTMENT OF HUMAN :
 SERVICES, CITY OF :
 PHILADELPHIA : NO. 97-7512

MEMORANDUM ORDER

Plaintiff filed a Motion for Jurisdiction of Child Custody (Doc. #15) and related submissions including a response he filed in proceedings pending in the Philadelphia Family Court.

Plaintiff states that his children were removed from him following a visit by a DHS social worker responding to a report of abuse. He states that they were placed in foster care and then for adoption when he did not meet all of the goals set by the Family Court. He states that he did meet some of the goals including participation in counseling and parenting courses and attendance at Alcoholics Anonymous and Narcotics Anonymous meetings, but was prevented from securing a satisfactory residence by his landlord's negligence and breach of contract.¹

¹Plaintiff states that the landlord bears responsibility for the removal of the children insofar as this resulted from his failure to maintain the residence in proper order. Plaintiff does not press a claim against the landlord herein and, in any event, this court would have no jurisdiction to adjudicate a claim for negligence or breach of contract by plaintiff against a non-diverse private landlord.

He states that the presiding Family Court judge refused to entertain his complaints about the assigned DHS social worker who made misrepresentations at court proceedings.² Plaintiff asks for an order to return the three children to him and to stop the adoption process authorized by the state court.

The court has no authority to enter an order effectuating child custody. See Ankenbrandt v. Richards, 504 U.S. 689, 702-03 (1992). The court has no authority to review a state court decision in a judicial proceeding or to grant relief which would render a state court ruling ineffectual. See FOCUS v. Allegheny County Court of Common Pleas, 75 F.3d 834, 840 (3d Cir. 1996); Leidel v. Juvenile Court of Madison County, 891 F.2d 1542, 1545 (11th Cir. 1990); Doman v. State of Pennsylvania Department of Public Welfare, 2000 WL 254308, *1 (E.D. Pa. Mar. 7, 2000) (federal district courts lack jurisdiction to grant relief from state court orders in child dependency proceedings). Rather, a party must challenge any adverse ruling, including those rejecting a federal constitutional contention, through the state courts and ultimately to the U.S. Supreme Court. This

²Plaintiff presses no claim directly against the social worker who, in any event, has absolute immunity for her actions in initiating and presenting information or recommendations in custody or dependency proceedings to the state court. See Ernst v. Child and Youth Services of Chester County, , 108 F.3d 486, 493 (3d Cir. 1997). The named defendants would not be vicariously liable for the alleged wrongful conduct of the social worker, see id. at 498, and could not provide the relief Mr. Bush requests without ignoring the state court's rulings.

court cannot countermand a state court custody or adoption order.

ACCORDINGLY, this day of March, 2000, **IT IS**
HEREBY ORDERED that plaintiff's Motion is **DENIED**.

BY THE COURT:

JAY C. WALDMAN, J.