

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DARNELL CUMMINGS,

Plaintiff,

v.

DECISION AND ORDER
12-CV-618S

DAVID PATERSON, et al.,

Defendants.

I. Introduction

This is a civil rights action (under the Eighth and Fourteenth Amendments and the Americans with Disabilities Act, 42 U.S.C. § 121132, “ADA”) commenced by Plaintiff alleging deliberate indifference to his medical condition while in Defendants’ custody from 1999 to 2012, particularly from 2008-2011. The parties submitted papers concluding this action and this Court scheduled a conference for September 7, 2022 (Docket No. 110). Upon the request of the parties to submit this matter on the settlement papers, that conference is canceled.

II. Supplemental Needs Trust

First, this Court will address Plaintiff’s proposed Order approving a supplemental needs trust for Plaintiff.

The parties have agreed to settle this matter (see Docket No. 109) and waive a formal appearance before this Court to approve the settling documents. Now before this Court are a proposed Order adopting a supplemental needs trust for Plaintiff and adoption of the parties’ Stipulation of Settlement and Discontinuance and Release Pursuant to Federal Rule of Civil Procedure 41(a) (id.).

The parties in the above-captioned matter having reached a settlement agreement to be so ordered by the Court, and having agreed upon the amount DOCCS will pay Plaintiff, Darnell Cummings, subject to the provisions of the settlement agreement and Order, and having agreed that same shall be made payable to the “Darnell Cummings Supplemental Needs Trust” in accordance with the governing law, and the proposed trust having been submitted in draft to this Court for approval (attached hereto as Exhibit “A”),

Now, upon the filing and reading of the papers for both parties, and in particular the proposed supplemental needs trust, the Court finds that Plaintiff Darnell Cummings, the Beneficiary, is a disabled person as defined in Social Security Act, § 1614(a), 42 U.S.C. § 1382c(a), and 42 U.S.C. § 1382(a)(3); and that it would be in the best interests of the Beneficiary for this Court to enter an Order and decree establishing the “Darnell Cummings Supplemental Needs Trust,” as specified in 42 U.S.C. § 1396p(d)(4), as amended August 10, 1993, by the Revenue Reconciliation Act of 1993, Pub. L. 103-66.

It is therefore ordered and declared, that the proposed “Darnell Cummings Supplemental Needs Trust” is approved and established for the benefit of Plaintiff Darnell Cummings, a disabled person.

III. Stipulation of Settlement and Discontinuance (Docket No. 109)

The parties’ Stipulation of Settlement and Discontinuance of this action (Docket No. 109) is so ordered.

IV. Orders

IT HEREBY IS ORDERED, that the conference scheduled for September 7, 2022, is CANCELED.

FURTHER, that Plaintiff's proposed supplemental needs trust (attached as an Exhibit to this Order) is ADOPTED.

FURTHER, that the parties' Stipulation of Settlement and Discontinuance and Release Pursuant to Rule 41(a) (Docket No. 109) is SO ORDERED and this case is DISMISSED with prejudice pursuant to Rule 41(a).

FURTHER, that the Court Clerk is DIRECTED to close this case.

SO ORDERED.

Dated: August 30, 2021
Buffalo, New York

s/William M. Skretny
WILLIAM M. SKRETNY
United States District Judge