

DEPARTMENT OF BENEFIT PAYMENTS
744 P Street, Sacramento, CA 95814

August 22, 1975

ALL-COUNTY LETTER NO. 75-187

TO: ALL DISTRICT ATTORNEYS
ALL COUNTY WELFARE DIRECTORS

SUBJECT: CHILD SUPPORT

REFERENCE: DOE v. CARLESON

The injunction which was issued by the United States District Court for the Northern California District in the case of Doe v. Carleson has recently been modified by that Court. In its modified form the injunction conforms to the recent amendments to the Social Security Act and provides that cooperation of the custodial parent may be required in absent parent cases. Failure or refusal to cooperate may result in the custodial parent being found ineligible for public assistance.

The Department of Benefit Payments is presently drafting regulations, which will supersede regulations presently in effect, to implement the provisions of the injunction as modified. Prior to receipt of these regulations it is important that no action be taken by county agencies to enforce the cooperation requirements. These necessary regulations will be issued in the very near future.

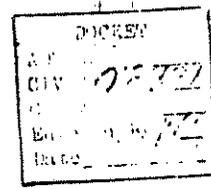
A copy of the Court's Memorandum and Order is attached for your information.

Sincerely,


MARION J. WOODS
Director**OBSOLETE**Superseded by PCL # 77-15
Issued 3-17-77

Attachment

cc: CWDA



ORIGINAL
FILED

AUG - 4 1975

WILLIAM L. WHITTAKER
CLERK, U. S. DIST. COURT
SAN FRANCISCO

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JANE DOE, et al.,
Plaintiffs,
v.
JEROLD A. PROD, et al.,
Defendants.

No. C-71-864 RFP

ELIZABETH TAYLOR, et al.,
Plaintiffs;
v.
JEROLD A. PROD, et al.,
Defendants.

No. C-69-666 RFP

MEMORANDUM AND ORDER

In Doe v. Carleson, Civil No. 71-864 (N.D. Cal.), provisions of California Welfare and Institutions Code § 11477 were challenged as placing unwarranted conditions on welfare eligibility in violation of the Social Security Act. On July 18, 1972, the parties stipulated to a permanent injunction which included the following provision:

Defendant ROBERT CARLSON, Director of the State Department of Social Welfare, his agents, employees and all persons acting in concert or participating with him are hereby enjoined and restrained from invoking California Welfare and Institutions Code §§ 11477(a), 11477(c), or 11477(d) or any state statute or regulation, which results in the ineligibility for AFDC of any

1 person because the applicant refuses to be
2 interviewed by the district attorney, re-
3 fuses to disclose the identity or where-
4 abouts of an absent parent of her or his
5 children, or requests dismissal of a
6 criminal non-support complaint previously
7 filed against an absent parent of her or
8 his children.

9 This court retained jurisdiction to insure that this stipulated
10 order was followed. On July 7, 1975, in the presence of op-
11 posing counsel, defendant Jerold Prod, Acting Director of the
12 State Department of Benefit Payments, moved this court for an
13 order modifying the aforementioned injunction. The matter was
14 submitted to the court for its consideration and decision
15 based on the arguments of counsel and the pleadings on file.

16 In light of a recent amendment to §§ 402(a) and 405
17 of the Social Security Act, P. L. 93-647, and the decision of
18 the Court of Appeals for the Ninth Circuit in Grow v. Smith,
19 511 F.2d 1146 (9th Cir. 1975), the court finds that the in-
20 junction should be modified to provide as follows:

21 Defendant Jerold A. Prod, Acting Director of the
22 State Department of Benefit Payments, his successors, agents,
23 employees and all persons acting in concert or participating
24 with him are hereby enjoined and restrained from invoking
25 California Welfare and Institutions Code § 11477 or any other
26 state statute or regulation which results in the ineligibility
27 for AFDC of a child because the parent of such child refuses to
28 cooperate with the state in establishing the paternity of such
29 child or in obtaining support payments for such parent or child.
30 However, nothing in this order shall be construed as preventing
31 the state from requiring the parent, as a condition of eligi-
32 bility for aid, to cooperate with the state in establishing the
33 paternity of such child or in obtaining support payments for
34 such parent or child within the meansing of 42 U.S.C.
35 § 602(a)(26)(B) as implemented by 45 C.F.R. § 232.12 (F.R.,

1 Vol. 40, No. 124, Page 2715, June 26, 1975).

2 Furthermore, nothing in this order shall be construed
3 as preventing the state from requiring applicants/recipients
4 to furnish information necessary to determine dependence and
5 current need, such as the names of the children of the absent
6 parent, information about the existence of a divorce and/or
7 support decree and the amount currently received under a sup-
8 port decree, the address of the missing parent and employment
9 data (such as name of employer and social security number) re-
10 lating to such absent parent, as held in the decision of the
11 Ninth Circuit Court of Appeals in Grow, et al. v. Smith, 511
12 F.2d 1146 (9th Cir. 1975).

13 The respondents strongly urge that the court further
14 define the term cooperation at this time. It is a basic prin-
15 ciple of federal jurisdiction that the district courts do not
16 have power to decide matters in which there is no actual case
17 or controversy. Consideration of the scope of the term co-
18 operation should be deferred until such time as there is a
19 plaintiff who has actually been harmed by the application of
20 the statute or its derivative regulations.

21 In light of the discussion herein, the court's pre-
22 vious injunction should be modified as set out above.

23 IT IS SO ORDERED.

24 Dated: August 1, 1975

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United States District Judge