

Interim Report to the Barbara McDowell & Gerald S. Hartman Foundation Children's Rights

Case Background

In March 2011, Children's Rights filed a class action in federal court seeking reform of the Texas child welfare system on behalf of approximately 12,000 abused or neglected children in long-term foster care statewide. The lawsuit, known as *M.D. v. Perry*, charges Texas's Department of Family and Protective Services (DFPS) with violating the constitutional rights of children who generally have been in foster care for at least a year, by routinely failing to find them safe, appropriate, and permanent new families—and therefore failing to meet its legal obligation to ensure the safety, permanency, and well-being of all children in its custody.

The core of the case concerns harms and risks of harm suffered by children in the “permanent managing conservatorship” of Texas, or “PMC” (children who have been in foster care for at least 12-18 months). For years, the Texas child welfare system has effectively written off these children, exposing them to poor oversight by an overburdened workforce, a grossly inadequate number of foster homes, frequent placement moves, inappropriate use of group facilities and institutions, the separation of siblings, the placement of children far from home and a lack of contact with parents even when the goal is reunification, and years in state custody with little hope of finding a permanent loving family.

Progress Report

In December 2014, trial was held in federal court in Corpus Christi, where Children's Rights presented evidence of dangerous structural failings and their impact on the 12,000 children in PMC status in the custody of the state's child welfare system. During the two-week-long trial, with our local co-counsel, we presented expert witnesses, former foster youth, key employees and officials from the state's child welfare agency, front-line advocates and service providers, and other local stakeholders, who revealed the profound harm and risks of harm children are exposed to in the Texas system due to longstanding institutional failings. Our expert witnesses included:

- *Dr. Caroline Long Burry, School of Social Work, University of Maryland*
Dr. Burry testified regarding custom and practice in child protective services generally and whether professional standards in the field of child welfare have been adhered to in the cases of the Named Plaintiffs.
- *Dr. William Lee Carter, Waco Psychological Associates*
Dr. Carter testified regarding psychological and emotional harms experienced by children in the conservatorship of the State of Texas.
- *Daryl K. Chansuthus, LAPSW*
Ms. Chansuthus testified regarding custom and practice in the licensing division of DFPS and whether the organizational structure, policies and procedures, processes, and practices adhere to professional standards and provide the regulatory oversight needed to protect children.
- *Mary Dee Richter, M.S.Ed.*
Ms. Richter testified regarding Foster Group Homes in Texas DFPS and whether children placed in this type of setting were protected from harm.
- *Dr. Viola Miller*
Dr. Miller testified regarding her review of DFPS' overburdened workforce and inadequate placement array.

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The Texas trial team wove together the tragic personal stories of foster youth, statewide evidence and the stark admissions from state agency staff, in crafting our legal arguments and pre- and post-trial briefing (filed on February 13, 2015, attached).

Anticipated Future Activities

The defendants are scheduled to file their response to Children's Rights' post-trial briefing on March 30, 2015. Additional oral argument, with the benefit of post-trial briefs, will be scheduled later this spring, with a decision expected late summer or early fall.

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