

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

Case Background

In February 2015, Children's Rights and the Arizona Center for Law in the Public Interest filed a class action lawsuit, *B.K. v. McKay*, against the state of Arizona on behalf of the over 18,000 children in the custody of its Department of Child Safety (DCS). Perkins Coie LLP, an international firm with offices in Arizona, joined the case as co-counsel in April. The suit charges DCS, the Department of Health Services (DHS), and the Arizona Health Care Cost Containment System (AHCCCS) with violating the plaintiff children's constitutional and federal statutory rights by failing to: (1) maintain an adequate number and array of licensed family foster homes, (2) provide needed health care services, (3) preserve family ties once children are in foster care, and (4) conduct timely investigations into reports that children have been maltreated while in state care.

Progress Report

Since our March 2016 report to the Foundation, Children's Rights and our partners have made significant progress toward our next major hurdle in our reform campaign: certification of our plaintiff class.

As noted in our March report, in December 2015, the parties had their first conference with the federal judge, who is permitting Children's Rights to engage in full fact-finding on the merits of Plaintiffs' claims, even before the court has ruled on Plaintiff's motion for class certification. In February 2016, after the defendants challenged the suitability of the adults who represent the Named Plaintiffs in our suit ("Next Friends"), we made a formal motion to have the Next Friends approved by the Court. The Court approved two of our three Next Friends, and we were able to substitute the third with an experienced attorney for children.

In the meantime, we have continued to engage in fact-finding to develop the evidence we need to support the Plaintiffs' claims, along with our partners at Perkins Coie and the Arizona Center for Law in the Public Interest. We have also battled through numerous disputes over the scope of our document requests. We will take the sworn depositions of key Arizona officials at the three Defendant agencies starting in late July 2016.

We have also retained highly qualified experts to support our claims around the state's systemic failure (1) to provide physical and behavioral health services, (2) to timely investigate allegations of abuse and neglect of children in the state's custody, (3) to maintain an adequate array of foster placements, and (4) to support family reunification.

Anticipated Future Activities

Children's Rights expects to file a motion for class certification by late November 2016.

Attorney Contact:

Sandy Santana, Executive Director
ssantana@childrensrights.org
(212) 683-2210