

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, COUNTY DIVISION

HOPE HILL, RHONDA SMITH,  
ANJANETTE VANCE and CRYSTAL TAYLOR  
by and through their next friend,  
LESLIE JONES, on their own behalf  
and on behalf of all others  
similarly situated,

Plaintiffs,

v.

JAMES ERICKSON, Director,  
Chicago-Read Henry Horner  
Children's Center; GORDON JOHNSON,  
Director, Illinois Department of  
Children & Family Services;  
ANN KILEY, Director,  
Illinois Department of  
Mental Health and Developmental  
Disabilities,

Defendants.

*Filed 11/15/88*  
No. 88 CO 296

AMENDED COMPLAINT FOR INJUNCTIVE AND  
DECLARATORY RELIEF FOR VIOLATIONS OF:  
THE ILLINOIS JUVENILE COURT ACT, THE ILLINOIS FAMILY  
PRESERVATION ACT, THE FEDERAL ADOPTION ASSISTANCE AND  
CHILD WELFARE ACT; THE FOURTEENTH AMENDMENT TO THE  
UNITED STATES CONSTITUTION AND ARTICLE I OF THE  
CONSTITUTION OF THE STATE OF ILLINOIS

I. INTRODUCTION

1. This is a civil rights action brought under 42 U.S.C. §1983 and state law. Plaintiffs are a class of hundreds of adolescent children who are wards of the Illinois Department of Children and Family Services ("DCFS") but who are themselves parents, with young children of their own, or pregnant and thus prospective parents. Defendants are the Director of the Illinois Department of Children and Family Services, the Director of the

Illinois Department of Mental Health and Developmental Disabilities and the Director of the Chicago-Read Henry Horner mental health facility ("Henry Horner").

2. Hope Hill, one of the named plaintiffs, originally filed this case as a Petition for Writ of Habeas Corpus and Complaint for Injunctive Relief for herself individually. She alleged that defendants in her suit unlawfully detained her at Henry Horner Children's Center because her guardian, DCFS, had no appropriate placement for her and her child. This Court granted preliminary relief by agreement.

3. In this amended complaint, plaintiff Hill and other parties allege that defendants, by inappropriately placing them in shelters, mental health facilities and other inadequate settings, separating them from their children and failing to afford them treatment and services consistent with their unique needs as adolescent parents or expectant parents, violate their rights under the Illinois Juvenile Court Act, Ill. Rev. Stat. ch. 37 et seq., the Family Preservation Act, Ill. Rev. Stat. ch.23, §§5005 et seq., the Illinois Mental Health and Developmental Disabilities Act, Ill. Rev. Stat. ch.91 1/2, the federal Adoption Assistance and Child Welfare Act, 42 U.S.C. §§620 et seq. and §§671 et seq., the First, Ninth and Fourteenth Amendments to the United States Constitution and Article I, §§1, 2 and 6 and of the Constitution of the State of Illinois.

4. The named plaintiffs seek declaratory and injunctive relief on behalf of the plaintiff classes. All class members reserve the right to seek damages for defendants' violations of their statutory and constitutional rights. As plaintiff Hill's claim for a writ of habeas corpus is moot, she has abandoned this claim.

## II. PARTIES

### A. Plaintiffs

5. Plaintiff Hope Hill is a sixteen year old child and a ward of DCFS. She has an infant daughter. She resides in Chicago. She brings this action through her next friend, Leslie Jones.

6. Plaintiff Rhonda Smith is an eighteen year old child and a ward of DCFS. She has two small sons. She resides in Chicago. She brings this action through her next friend, Leslie Jones.

7. Plaintiff Anjanette Vance is an eighteen year old child and a ward of DCFS. She has a two year old son. She resides in Chicago. She brings this action through her next friend, Leslie Jones.

8. Plaintiff Crystal Taylor is a fifteen year old child and a ward of DCFS. She is pregnant. She resides in Chicago. She brings this action through her next friend, Leslie Jones.

9. In Counts I-III, the named plaintiffs bring this action on their own behalf and, pursuant to Ill. Code Civ. Proc. 2-801, on behalf of a class of all persons similarly situated. The class

consists of minors (as defined by Section 801-2(12) of the Juvenile Court Act) who, on or after after September 21, 1988 have been, are or will be in the custody of, or under the guardianship of DCFS and are pregnant or have a child or children.

10. In Counts IV and V plaintiffs Hill and Smith bring this action on their own behalf and, pursuant to Ill. Code Civ. Proc. 2-801, on behalf of a class of all persons similarly situated. The class consists of minors (as defined by Section 801-2(12) of the Juvenile Court Act) who, on or after after September 21, 1988: (a) have been, are, or will be in the custody of, or under the guardianship of DCFS and are pregnant or have a child or children; and (b) have been, are, or will be admitted to a mental health facility under the jurisdiction of Illinois Department of Mental Health and Developmental Disabilities, as set forth in Ill.Rev.Stat. ch 91 1/2 §§§1-114,100-4.

11. The Count I-III class currently exceeds several hundred people. The Count IV-V class currently exceeds one hundred people. Accordingly, joinder of all members is impracticable.

12. Questions of law common to the Count I-III class include the legal responsibility of DCFS to provide appropriate placement and treatment for its adolescent wards who are pregnant or have children; and the right of plaintiffs to receive services to enable them to be with their children. Questions of law common to the Count IV-V class are the legal responsibility of the Department of Mental Health and Developmental Disabilities to

discharge the plaintiffs from institutions where they are inappropriately placed or detained.

13. Questions of fact common to the Count I-III class include what policies and practices DCFS has adopted concerning making placement and providing services to meet the needs of pregnant and parenting teens; and what efforts DCFS makes to keep these young families together. Questions of fact common to the Count IV-V class include the policies and practices DMHDD has adopted regarding the discharge of DCFS wards.

14. Plaintiffs have retained experienced and able counsel and will fairly and adequately protect the interests of the classes. The factual and legal issues presented are capable of resolution in a single lawsuit. Accordingly, the class action will assist in fair and efficient adjudication of the controversy.

B. Defendants

15. Defendant James Erickson is director of the Chicago-Read, Henry Horner Children's Center, a mental health facility under the jurisdiction of the Illinois Department of Mental Health and Development Disabilities ("DMHDD"). As such, he is responsible for ensuring that such facility operates in conformity with law, including the Illinois Mental Health and Developmental Disabilities Code ("the Code"). He is sued in his individual and official capacity.

16. Defendant Gordon Johnson is the director of the Illinois Department of Children and Family Services ("DCFS"). It is his

duty to ensure that DCFS fulfill its legal obligations to its wards and their families as imposed by the Juvenile Court Act, the Family Preservation Act and the Adoption Assistance and Child Welfare Act of 1980. He is sued in his individual and official capacity.

17. Defendant Ann Kiley is the director of the Illinois Department of Mental Health and Development Disabilities ("DMHDD"). By law, she is charged with the responsibility to supervise the state mental health facilities under the jurisdiction of DMHDD (as set forth in Ill. Rev. Stat. ch. 91 1/2 §§1-114, 100-4) and to ensure appropriate mental health services are rendered to children in the care of DMHDD. She is sued in her individual and official capacity.

### III. TEMPORARY CUSTODY AND WARDSHIP

18. Under the Illinois Juvenile Court Act, Ill. Rev. Stat, ch. 37, §802-10 a child may come into the temporary custody of DCFS if he or she is abused, neglected, or dependent and, upon the filing of a petition, there is a judicial finding within 48 hours that:

(a) it is a matter of urgent and immediate necessity for the protection of the minor (or others); and

(b) "reasonable efforts" have been made, or good cause has been shown why reasonable efforts cannot prevent or eliminate the need for removal of the child from the family. Ill. Rev. Stat. ch. 37, §§802-3, 4 and 10.

19. A child may also come into the temporary custody of DCFS

if, upon the filing of a petition, he or she requires "authoritative intervention" and DCFS agrees to take temporary custody. Ill. Rev. Stat. ch. 37, §§803-3 and 9.

20. The award of temporary custody to DCFS carries with it the duty to "place" the child in the least restrictive, most family-like setting possible and to provide protection, training, discipline, food and medical care. Ill. Rev. Stat. ch. 37, §801-2.

21. If after trial and adjudication of the petition, a child is found to be "abused," "neglected," "dependent" or a minor in need of authoritative intervention, a dispositional hearing is held. At that hearing the Juvenile Court determines whether the child will become a ward of the court. If so, DCFS may be appointed the child's legal guardian. DCFS then has the right to "place" the child. A child remains a ward until the age of 21 unless the court terminates guardianship prior to that time. Ill. Rev. Stat. ch. 37, §802-27(6).

22. When a child is under the care of DCFS but is physically placed in the care of someone other than his parents, the placement is called "foster care". Foster care may include placement in a single-family home, group home or institution. The federal government reimburses part of the cost of placing many children -- who meet certain eligibility criteria -- in foster care pursuant to the Adoption Assistance and Child Welfare Act of 1980, 42 U.S.C. §671 et seq.

#### IV. DEFENDANTS' DUTIES TO CLASS MEMBERS

A. Defendant Johnson's Duties:

23. The Illinois Juvenile Court Act, Ill. Rev. Stat. ch.37, §801 et seq. governs the rights of abused, neglected and dependant children in Illinois. Its stated purpose, inter alia, is to protect and strengthen family life wherever possible. Ill. Rev. Stat. ch.37, §801-2(1).

24. Both the Juvenile Court Act and Ill. Rev. Stat. ch. 23, §5000 et seq., An Act Creating the Department of Children and Family Services, set forth the rights of children and the correlative responsibilities of DCFS. Both ch. 23 and ch. 37 were amended by the Family Preservation Act, Public Act 85-985 on December 22, 1988.

25. Under the Juvenile Court Act and the Act Creating the Department of Children and Family Services, Defendant Johnson, by DCFS, has specific legal obligations to minors under DCFS' custody or guardianship. These include the duties to:

(a) provide services necessary to the child's proper development; provide for the moral, emotional, mental and physical welfare of its ward, and protect and promote the child's welfare. Ill. Rev. Stat. ch. 37, §§801-2(1), (3) (b), (9) and (11); §802-37(3); §803-28(3); Ill. Rev. Stat. ch.23, §5005. The duty to provide these services includes the duty to provide placement appropriate to the child's needs.

(b) ensure that services needed by the minor and his or her family are identified and provided in accordance with an

