



**MISSISSIPPI'S CONTINUING FAILURE HAS A "SUBSTANTIAL AND CONTINUING IMPACT ON THE SAFETY AND WELL BEING" OF THOUSANDS OF FOSTER CHILDREN, REPORT CONCLUDES**

*Court Monitor in the Olivia Y. v. Bryant foster care lawsuit says timeline to protect children is "urgent" because of state's lack of progress*

***OLIVIA Y. v. BRYANT, U.S. District Court Case No. 3:04-CV-251-LN***

The most recent report on a seven-and-a-half year old court-ordered settlement agreement to protect children in Mississippi's foster care, issued on June 15, has found that "the state defendants do not have the capacity" to meet many of the court order's most basic requirements, developed to protect children in the state's foster care system. It underlines and updates the conclusions in a report issued in May, 2014, covering the state's activities during the previous year, which formed the basis for a motion filed in March and now pending in federal court. Plaintiff foster children have asked the federal court to find the state in contempt for failing to implement the settlement agreement, and asked the federal court to appoint a receiver to take over the state's foster care system.

The federal judge, the Hon. Thomas S. Lee, has scheduled an evidentiary hearing in the federal court in Jackson, beginning Aug. 10th.

This new report covers the state's efforts to improve the foster care system from July 1, 2013, through June 30, 2014. According to the report, "Defendants' ongoing failure to meet these requirements has a substantial and continuing impact on the safety and wellbeing of thousands of children in defendants' custody every year." The court order in the *Olivia Y.* lawsuit was entered in 2008 to resolve a lawsuit alleging widespread constitutional failings in the state's foster care system. The newest report, issued by the court monitor, Grace Lopes, documents years of non-compliance by the Mississippi Department of Human Services, even after the settlement agreement was renegotiated in 2012 to allow the state more time to meet its obligations.

As the report notes, in comparing problems documented in the May, 2014, report, covering Period 3, to those observed in the most recent report, covering Period 4, "There is little evidence that defendants'



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implementation strategy is positioning defendants to meet MSA [Modified Settlement Agreement] requirements.” [p. 14]

According to the court monitor, “Most of the organizational shortcomings that were evident during Period 3 – inadequate regional management capacity and accountability systems, largely unenforced corrective action processes, an inadequate and at times unreliable automated management information system, and insufficient numbers of caseworkers and supervisors – were not addressed effectively during Period 4.” The report continues and points out that as a result of staffing shortages, “the defendants undercut their own reform strategy” by diverting dedicated staff to fill gaps in staffing throughout the agency.

The report documents that in many instances the foster care system’s performance became even worse in the most recent period. Many children’s cases are supervised by workers whose caseloads exceed required standards, basic, timely medical care is not being provided to children in foster care, and maltreatment investigations are not taking place on a timely basis. During this period, the state met or exceeded only 24 % of the statewide requirements for which the monitor had necessary data to make a finding, and as a general matter regional performance was worse.

“The state has spent millions of dollars to implement a reform strategy that is simply not working, in part because the state itself is undermining it,” said Marcia Robinson Lowry, the executive director of A Better Childhood, Inc., a national non-profit child advocacy organization, who is lead counsel for the plaintiff children. “Unfortunately, it is clear from all that the court monitor has documented that the state of Mississippi is simply not going to protect its most vulnerable children unless the federal court takes additional action to make them do so. Children’s lives depend upon it.”

Plaintiffs are also represented by Wayne Drinkwater and Michael Bentley, of the Jackson, MS., office of the law firm of Bradley Arant Boult Cummings, and by Christian Carbone and Dan Friedman, of the law firm of Loeb and Loeb.

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**A Better Childhood** is a national nonprofit advocacy organization that uses the courts to reform dysfunctional child welfare systems around the country. **Marcia Robinson Lowry**, A Better Childhood’s executive director, has been lead counsel in the *Olivia Y v. Byrant* lawsuit since the case was filed in 2004.



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