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Lawsuit to Reform Harmful Oklahoma Child Welfare System May Proceed as Class Action, Federal Appeals Court Rules

DENVER, CO – Strongly rejecting state officials' claims that a district court judge abused his discretion in granting class action status to a lawsuit aimed at reforming the harmful child welfare system of Oklahoma, the 10th Circuit Court of Appeals in Denver today upheld the lower court's May 2009 decision to allow the lawsuit to proceed on behalf of all of the more than 10,000 abused and neglected children in state custody.

The national advocacy organization Children's Rights and a team of Oklahoma attorneys filed the lawsuit known as *D.G. v. Henry* in February 2008, charging the state Department of Human Services (DHS) with violating the constitutional rights of children by routinely placing them in unsafe, unsupervised, and unstable situations in which many suffer further abuse—and some die—due to the department's longstanding failure to correct widespread problems that prevent it from providing adequate care and protection.

In its appeal of the district court's decision to grant the case class action status, the state argued that the abuse suffered by some children in state foster homes (1.2 percent, according to the children's complaint to the federal court) did not imply risk to all children in the custody of the state's child welfare system.

"This argument entirely misses the mark," wrote the appeals court in today's decision. "The fact that 1.2% of OKDHS foster children reported abuse or neglect does not mean the rest of the class was not exposed to an impermissible risk of serious harm. In theory, 100% of foster children could live under an imminent threat of serious harm, but only 1.2% ultimately suffer and report abuse or neglect."

The court further rejected the state's claim that the class proposed by plaintiffs lacked the cohesiveness necessary to enable the federal court to grant relief that would be appropriate for the class as a whole. Among the measures proposed by Children's Rights attorneys are limits on child welfare workers' caseloads and frequent, required visits to children in the custody of the state child welfare system.

"This is a strong affirmation of children's right to seek relief in federal court for the harm they have suffered at the hands of dysfunctional child welfare systems, and we will now press on in our campaign on their behalf to secure an enforceable order from the court requiring the state to dramatically improve its treatment of all of the vulnerable children it serves," said Marcia Robinson Lowry, executive director of Children's Rights.

"It is also a strong rejection of the arguments state officials have made in trying to prevent this case from moving forward," Lowry said. "It is time for them now to stop delaying the process of reform through all manner of costly and time-consuming legal maneuvering and begin fixing at last the widespread problems that continue to put thousands of children at risk of great harm every day."

The full text of today's decision and more information on Children's Rights' campaign to reform Oklahoma child welfare can be found at www.childrensrights.org/oklahoma.

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Children's Rights is a national organization advocating the reform of failing child welfare systems in the United States on behalf of the hundreds of thousands of abused and neglected children who depend on them for protection and care. Since 1995, Children's Rights has used legal action and policy initiatives to drive lasting reform in child protection, foster care, and adoption.