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Lawyers for the Oklahoma Department of Human Services announced they received today a decision from the United States Court of Appeals for the Tenth Circuit upholding the trial court's decision in the Department's pending appeal in *DG.v.Henry*. Don Bingham, attorney for the Department with the Tulsa-based firm of Riggs, Abney, Neal, Turpen, Orbison & Lewis, Inc., said that the decision was a procedural one. "The decision involves a narrow point of law that affects class action lawsuits," he said.

The ruling holds that the district court did not abuse its discretion in allowing the case to remain a class action because it is bound by the facts in the plaintiff's complaint, not by whether the allegations were proven or provable."

The Court noted in oral arguments that the trial court could decertify the class at any time. "The Tenth Circuit explicitly found that **"the district court's certification decision is a preliminary one,"** he explained. "All the Children's Rights had to do to prevail was allege that a question of fact might exist."

Bingham said that the Department continues to be proud of its commitment to continuous improvement and child safety. "We look forward to the opportunity to demonstrate to the Court's satisfaction that this litigation is unnecessary. We remain confident that the ultimate resolution will find that OKDHS provides excellent care for children, without the need for lengthy, expensive litigation and federal court oversight."

The Department has one of the nation's highest rates for agency visits to children in care. Oklahoma also maintains one of the highest adoption rates per capita.

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