

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
HATTIESBURG DIVISION**

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K.L.W., by and through his next friend, Rosetta  
Williams, on his own behalf and on behalf of  
those similarly situated,

Plaintiffs,

vs.

RICHARD JAMES, in his official capacity as  
Acting Administrator of Columbia Training  
School; DONALD TAYLOR, in his official  
capacity as Executive Director of the  
Mississippi Department of Human Services; and  
KATHY PITTMAN, in her official capacity as  
Director of the Division of Youth Services,

Defendants.

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**CLASS ACTION**

CV -- \_\_\_\_\_

**COMPLAINT**

1. This is a civil action pursuant to 42 U.S.C. § 1983 to vindicate the Plaintiffs' rights under the First and Fourteenth Amendments to the United States Constitution. The named Plaintiff is a child confined at Columbia Training School who has been denied access to the courts. Rather than facilitate his access to courts, as the Constitution demands, the Defendants have instead created a series of obstacles designed to impede it. Under the State's obstructionist policy, an incarcerated child who seeks legal assistance with a federal claim may not even speak with an attorney unless he can somehow persuade her – presumably through an intermediary – to file an appearance in his youth court proceedings, a pleading that could obligate the attorney to assume full responsibility for the child's delinquency case. After filing an appearance, the attorney must still seek and obtain the youth court's permission before she can even meet with

her client. On behalf of himself and all current and future residents of Columbia Training School, K.L.W. seeks declaratory and injunctive relief requiring the Defendants to respect the class members' constitutional rights to access the courts, including access to counsel.

### **JURISDICTION AND VENUE**

2. This action arises under the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983. Jurisdiction is invoked pursuant to 28 U.S.C. §§ 1331, 1343(3), 2201, and 2202.

3. Because the Defendants reside in Columbia, Mississippi, and Jackson, Mississippi, and because the events giving rise to this action occurred in Columbia, Mississippi, venue is proper in the United States District Court for the Southern District of Mississippi pursuant to 28 U.S.C. § 1391(b).

### **PARTIES**

4. Plaintiff K.L.W. is a 14-year-old boy who was committed to Columbia Training School on February 12, 2004. He sues by and through his next friend and mother, Rosetta Williams. K.L.W. has been diagnosed with a specific learning disability and requires special education programming.

5. Defendant Richard James is sued in his official capacity as the Acting Administrator of Columbia Training School. In that capacity, Defendant James is responsible for the administration and day-to-day operations of Columbia.

6. Defendant Donald Taylor is sued in his official capacity as the Executive Director of the Mississippi Department of Human Services. In that capacity, Defendant Taylor exercises administrative control of and has responsibility for the operation of Columbia and Oakley Training Schools.

7. Defendant Kathy Pittman is sued in her official capacity as Director of the Division of Youth Services. In that capacity, Defendant Pittman exercises administrative control of and has responsibility for the operation of Columbia and Oakley Training Schools.

### **CLASS ACTION ALLEGATIONS**

8. Plaintiff K.L.W. brings this suit on his own behalf and on behalf of all children who are or will in the future be incarcerated at Columbia Training School.

9. The class is so numerous that joinder of all members is impractical. More than one hundred children are confined at Columbia on any given day. Children are committed to Columbia for varying lengths of time, and the population changes on a weekly basis. The class also includes hundreds of future members whose names are not known. Fed. R. Civ. P. 23(a)(1).

10. There are questions of law and fact common to all class members, including but not limited to the constitutionality of the Defendants' refusal to allow Plaintiffs to meet with counsel of their choice. Fed. R. Civ. P. 23(a)(2).

11. Because the policy and practice challenged in this Complaint apply with equal force to the named Plaintiff and the other members of the class, the claims of the named Plaintiff are typical of the class in general. Fed. R. Civ. P. 23(a)(3).

12. The named Plaintiff will fairly and adequately represent the interests of the class. He possesses a strong personal interest in the subject matter of the lawsuit, and is represented by experienced counsel with particular expertise in class action litigation in federal court. Counsel have the legal knowledge and the resources to fairly and adequately represent the interests of all class members in this action. Fed. R. Civ. P. 23(a)(4).

13. Defendants have acted and refuse to act on grounds generally applicable to the class in that Defendants' policy and practice of interfering with the Plaintiffs' constitutional right

to access the courts has affected all class members equally. Accordingly, final injunctive and declaratory relief is appropriate to the class as a whole. Fed. R. Civ. P. 23(b)(2).

### **STATEMENT OF FACTS**

14. Columbia Training School is one of two facilities in Mississippi where children who have been adjudicated delinquent in youth court are committed for the purpose of rehabilitation and treatment. The population consists of boys aged 10-14 and girls aged 10-18. Columbia is the only training school in Mississippi that houses girls.

15. The parents and other legal guardians of the young people confined at Columbia can only communicate with their children through letters and during brief and infrequent telephone calls and visits. Children may only receive visits from immediate family members who are at least 21 years old.

16. Most of the youth at Columbia suffer from mental disorders or disabilities that inhibit their ability to communicate effectively. In fact, a study commissioned by the Mississippi Department of Public Safety and the Mississippi Department of Mental Health found that 66% to 85% of incarcerated juveniles in Mississippi suffer from at least one diagnosable mental disorder, compared to only 14% to 20% of youth in the general population. Angela Robertson & Jonelle Husain, Mississippi State University, *Prevalence of Mental Illness & Substance Abuse Disorders Among Incarcerated Juveniles* (July 2001).

17. In May 2002, the Joint Legislative Committee on Performance Evaluation and Expenditure Review (“PEER”) submitted a report to the Mississippi Legislature entitled *Health and Safety Issues at the Oakley and Columbia Training Schools* [hereinafter “PEER Report”]. The PEER Report found numerous deficiencies at both training schools in the areas of medical care, dental care, prevention of abuse, and treatment and programming for children with special

needs. Among many other recommendations, the Report suggested that Columbia change its suicide policy to require that staff respond to suicidal children by “counseling [them] rather than using punitive or disciplinary measures.”

18. At approximately the same time as the publication of the PEER Report, the United States Department of Justice (“DOJ”) launched a sweeping investigation of conditions at Columbia and Oakley Training Schools. DOJ’s investigation included on-site inspections of Columbia by expert consultants in juvenile justice administration, psychology, medicine, and education.

19. In June 2003, DOJ released a findings letter to announce its conclusion that conditions at both facilities violated the constitutional and statutory rights of juveniles. Although the letter identified numerous constitutional deficiencies at both facilities, DOJ found particularly shocking and abusive conditions at Columbia, including such inhumane institutional practices as hog-tying, pole-shackling, and prolonged isolation of suicidal youth in dark rooms without light, ventilation, or toilet facilities. DOJ also found rampant and unchecked staff-on-youth abuse, including physical assaults and chemical spray. Children with special needs were routinely denied the mental health and educational services to which they were legally entitled. No child was receiving the education, treatment, or rehabilitation guaranteed by the United States constitution.

20. The DOJ’s findings were well-publicized. Stories about the training schools appeared in several local newspapers and on a variety of local and national radio and television stations. Many parents with children confined in training schools were greatly alarmed by the findings, and several parents with sons and daughters committed to Columbia have requested that attorneys from the Mississippi Center for Justice (“MCJ”) and the Southern Poverty Law

Center (“SPLC”) conduct confidential legal interviews with their children at Columbia. MCJ and SPLC attorneys do not charge fees for their legal work. Both organizations provide legal services to clients on a pro bono basis.

21. In January 2004, SPLC attorney Sheila Bedi called Defendant Richard James to inquire about attorney visitation procedures at Columbia. Defendant James informed Ms. Bedi that the only document he would accept to authorize a legal visit was an order from a state youth court judge, recognizing the attorney as counsel of record in the child’s delinquency proceedings. When Ms. Bedi offered to submit written requests and authorizations from parents, Defendant James stated that because children at Columbia were in the custody of the State, written requests by parents would not be honored.

22. Columbia’s refusal to permit children to meet with counsel in the absence of a youth court order is the functional equivalent of an outright ban. Attorneys from MCJ and SPLC have previously attempted to comply with Columbia’s policy, but their efforts have been unsuccessful. In July 2003, MCJ attorney David Miller filed a motion with a child’s youth court judge to obtain permission to meet with the child. Speaking through her father, the child had asked to meet with an attorney. When the court failed to rule on the motion for two weeks, Mr. Miller filed a second motion asking for an expedited hearing in youth court. That motion also went unanswered. More than four weeks after Mr. Miller’s initial motion, the child was eventually released. The youth court had never ruled on either of the motions filed on her behalf.

23. On February 25, 2004, SPLC and MCJ attorneys wrote to Defendant James to confirm their understanding of the visitation policy. In pertinent part, the letter stated:

As we understand it, you stated that children at Columbia are deemed to be in the exclusive legal custody of the State, and that accordingly, only the child’s youth court judge can authorize a legal visit with an attorney. Even if a parent makes a written request that a particular attorney be permitted to meet with his or her

child, you stated that you would not allow the attorney to visit with the child in the absence of a court order.

Please contact us in writing immediately if we have misunderstood your policy in any way.

Copies of the letter were sent to Defendant Pittman, counsel for the Department of Human Services, and an attorney in the Office of the Mississippi Attorney General.

24. Neither the Defendants nor any other state official or employee have responded to the letter.

25. On March 14, 2004, Rosetta Williams visited her son – named Plaintiff K.L.W. – at Columbia Training School. During her visit, she observed that K.L.W. had dark bruises on his neck and wrists. K.L.W. reported that a staff member at Columbia had caused the bruising around his neck by choking him earlier that week. The staff member had also placed K.L.W. in handcuffs so tight that they left bruises. The abuse took place while K.L.W. was being escorted to an isolation cell, where he remained for four days. The staff member warned K.L.W. not to report the incident, and threatened to add time to his commitment if he disobeyed. Under Mississippi law, the date of a child's release is within the discretion of the facility administrator.

26. During Ms. Williams' March 14 visit, K.L.W. told his mother that he wanted to meet with an attorney about his commitment at Columbia. He also told her that he was terrified of retaliation.

27. On March 15, 2004, Rosetta Williams telephoned Defendant James to inform him that her son, K.L.W., wanted to meet with an attorney. She told him that she had found attorneys who were willing to speak with her son, and she asked him when such meetings could be scheduled. Pursuant to Defendants' policy, K.L.W.'s request to meet with counsel was refused. Defendant James informed Ms. Williams that no child would be permitted to meet with

an attorney in the absence of a youth court order. Defendant James told Ms. Williams that he could not speak to her about any specific child because he did not know who she really was. He then hung up on her.

### **EXHAUSTION**

28. Named Plaintiff K.L.W. has exhausted all available administrative remedies.

29. Shortly after Ms. Williams' visit on March 14, 2004, K.L.W. asked a counselor at Columbia for a grievance form. The counselor promised to give him a form, but never did.

### **CAUSES OF ACTION**

#### **I.**

30. By refusing to allow Plaintiffs to meet with their counsel, Defendants are violating the Plaintiffs' First and Fourteenth Amendment rights to meaningful, effective, and adequate access to the courts. U.S. CONST. amend. I & XIV.

31. The violation of the Plaintiffs' constitutional rights may be remedied pursuant to 42 U.S.C. § 1983.

#### **II.**

32. By refusing to allow Plaintiffs to meet with their counsel, Defendants are violating the Plaintiffs' Fourteenth Amendment rights to due process of law. U.S. CONST. amend. XIV.

33. The violation of the Plaintiffs' constitutional rights may be remedied pursuant to 42 U.S.C. § 1983.

### **PRAYER FOR RELIEF**

WHEREFORE, the Plaintiffs pray that this Honorable Court grant the following relief:

1. Certify a class consisting of all youth who are or will be incarcerated at Columbia Training School.



2. Enter a declaratory judgment that the Defendants' current policy and practice with respect to attorney visitation violates the Plaintiffs' constitutional rights to adequate, meaningful, and effective access to the courts.
3. Enter a preliminary and permanent injunction requiring the Defendants, their agents, employees, and all persons acting in concert with them to allow youth to meet with counsel of their choice by:
  - a. honoring written requests for legal visits, whether made by youth or by parents, without requiring a court order;
  - b. assisting children in making written requests for legal assistance;
  - c. posting a notice in each housing unit at Columbia that (i) informs youth of their right to speak with a lawyer to seek legal assistance, and (ii) provides the names, addresses, and telephone numbers of the Mississippi Center for Justice and the Southern Poverty Law Center;
  - d. refraining from harassing, intimidating, punishing, or otherwise retaliating against children who ask to or do speak with lawyers; and
  - e. protecting K.L.W. from any harassment, intimidation, punishment, or other retaliation as a result of his participation in this lawsuit.
4. Enter a permanent injunction requiring the Defendants to install telephones in every housing unit at Columbia so that children can contact attorneys by phone.

5. Award the Plaintiffs reasonable costs and attorneys' fees.
6. Grant the Plaintiffs such other relief as the Court deems necessary and just.

Respectfully submitted,

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*\*pro hac vice* motions pending