

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

OFFICE OF STATE PUBLIC DEFENDER;
ANDRÉ DE GRUY; and
JENNIFER MORGAN, BRENDA LOCKE,
and ANDREW ARMAN MIRI, individually
and on behalf of all others similarly situated,

Plaintiffs,

v.

KATHARINE SURKIN, DIRECTOR OF
THE ADMINISTRATIVE OFFICE OF THE
COURTS, in her official capacity,

Defendant.

Case No.: _____

DECLARATION OF ANDRÉ DE GRUY

I, André de Gruy, hereby declare:

Background

1. I am the State Public Defender for Mississippi. I submit this declaration in support of Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction. I am over the age of 18, competent to testify, and make the following declaration based on my personal knowledge, education, training, and experience, except as to those matters stated on information and belief, and as to those I believe them to be true. If called as a witness, I could and would testify competently to the contents of this declaration.

2. I am the Mississippi State Public Defender and have held this position since 2016. I am barred in Mississippi, have statutory authority to represent parents in child welfare cases and children in delinquency and children in need of supervision ("CHINS") cases, and general authority to speak for the office on issues related to public defense.

3. The Mississippi Office of the State Public Defender (“OSPD”) was established in 2011 to consolidate the existing Capital Defense Counsel Office, Office of Indigent Appeals, and Division of Defender Training, and to develop a proposal for a statewide public defense system.

4. In 2016, OSPD’s mission expanded to include representing parents in child welfare matters, including parents across the state facing abuse and neglect allegations and potential termination of parental rights, both in trial courts and on appeal. Today, the Family Defense Division oversees the delivery of legal services to parents in Mississippi; provides technical assistance to defense attorneys, including one-on-one support for attorneys in individual cases; and represents parents in some appeals.

5. In 2024, the Legislature authorized the establishment of a youth defender program, which similarly provides training and technical assistance for youth defenders, and advocates on behalf of youth in the youth court system; and provides direct representation.

6. I oversee and supervise the Managers of the Youth Defense Program and Parent Defense Program. I also approve statewide standards for Youth Court attorneys, which includes a requirement to complete at least six hours of training annually in order to receive appointments. Any Youth Court attorney who contracts with OSPD must agree to follow these standards.

7. OSPD has numerous current clients with Youth Court cases involving delinquency, CHINS, dependency, and termination, and a steady stream of future clients.

8. My office received an increase in appropriations from the Mississippi legislature this year. Beginning with the fiscal year that starts on July 1, I will oversee a budget of \$5.1 million. My office employs twenty-two people.

9. I have dedicated my career to public defense. I founded the Mississippi Office of Capital Defense Counsel in July 2001, and served as Director of that program, now a division of the

Office of State Public Defender, until June 1, 2021. I was Director of the Mississippi Capital Defense Resource Center Inc. and an Assistant Public Defender in Hinds County. I served on the Mississippi Corrections and Criminal Justice Task Force and now serve on the Corrections and Criminal Justice Oversight Taskforce. I served on the Mississippi Public Defender Association Board of Directors for over fifteen years including as President and Chair of both the Training and Public Policy Committees. I am also a member of the National Association for Public Defense, National Association of Criminal Defense Lawyers, and the Mississippi Association for Justice.

Youth Court

10. In Mississippi, cases involving children whose parents are accused of abuse or neglect, or who are themselves accused of delinquent acts or of being a child in need of supervision (“CHINS”), are heard in Youth Court.

11. In the twenty-four counties that have a County Court, a County Court Judge presides over Youth Court. In some larger counties, there is a judge dedicated to a Youth Court docket. In smaller counties, the sole County Court Judge hears all County Court matters.

12. In the fifty-eight counties without a County Court, Chancery Court Judges preside over Youth Court. In those jurisdictions, Chancery Court Judges routinely appoint a lawyer in private practice to sit part-time as a Youth Court referee.¹

13. County Court Judges and Chancery Judges are elected in non-partisan elections. Referees are unelected.

14. The delinquency, CHINS, dependency, and termination matters that are heard in Youth Court involve government action that seeks to infringe fundamental liberty interests: either the

¹ Counties in Which Youth Courts Are Served By Youth Court Referees (Updated Oct. 28, 2025), available at <https://courts.ms.gov/trialcourts/youthcourt/Referee%20list.pdf>.

government seeks to separate a family temporarily or permanently, or the government accuses a youth of a delinquent act and seeks to curtail their liberty.

15. Youth Court hearings are complex. All parties are entitled to counsel at most stages, and the rules of evidence govern most proceedings. Judicial officers apply a range of discretionary legal standards to the facts and are responsible for considering and resolving factual and legal questions that implicate the fundamental liberty interests of children and parents. Each one of the hearings that occurs within any Youth Court case is adversarial in nature and involves the substantive consideration of evidence, factfinding on disputed questions by a neutral arbiter, application of legal standards and precedent, the interplay of statutory and constitutional law, and the exercise of immense discretion by the judge.

16. The outcomes of these hearings change the trajectory of people's lives, and the impacts of those decisions last for generations. The importance of the rights at stake and the complexity of the hearings require Defendants to afford Plaintiffs' clients with fundamentally fair procedures, consistent with due process.²

17. There are over 100 attorneys across the state who meet the statutory training requirements to represent clients in Youth Court. However, it is impossible to know the exact number of attorneys who practice in Youth Court or to identify all attorneys with active Youth Court cases at any given time because Youth Courts in Mississippi are closed to the public and there is no public roster of attorneys who take Youth Court cases. Additionally, new attorneys regularly complete the training and decide to start taking Youth Court cases, while others are losing their certification and/or decide not to take Youth Court cases.

² *Stanley v. Illinois*, 405 U.S. 645 (1972) (requiring notice and a hearing prior to removal); *Santosky v. Kramer*, 455 U.S. 745, 753–54 (1982) (“When the state moves to destroy weakened familial bonds, it must provide fundamentally fair procedures.”); *In re Gault*, 387 U.S. 1, 30–31 (1967) (holding that delinquency proceedings must comport with due process).

18. OSPD's clients are particularly vulnerable. They are indigent people whose lives are in turmoil: parents whose children have been taken by the state, or minors who are in crisis, facing detention or other punishments. Parents and children fear retaliation if they upset the judicial officer presiding over their case.

Access to Records in Youth Court Cases

19. Mississippi law makes case files and records for Youth Court proceedings confidential, subject only to certain exceptions set out in Miss. Code Ann. § 43-21-261. *See* Miss. Code Ann. §§ 43-21-251–43-21-265.³

20. Those exceptions authorize AOC to give Plaintiffs, other Youth Court attorneys, and their clients access to the records and information that are necessary for attorneys to do their jobs and for their clients to receive basic procedural due process. They also permit judges to require AOC to disclose Youth Court records to service providers, foster placements, schools, and medical and mental health care providers.

21. Any unauthorized disclosure of confidential material is punishable by civil contempt or criminal prosecution. Miss. Code Ann § 43-21-267. Judges and prosecutors routinely threaten Plaintiffs and their clients that if they say anything about what happens in Youth Court or share records, they could be criminally charged or held in civil contempt. Officials with Child Protective Services (“CPS”) and the Department of Human Resources (“DHS”) threaten to report

³ *E.g.*, Miss. Code Ann. § 43-21-251(2) (“The records of the youth court and the contents thereof shall be kept confidential and not disclosed except as provided in Section 43-21-261.”); Miss. Code Ann § 43-21-255(1) (“Except as otherwise provided by this section, all records involving children made and retained by law enforcement officers and agencies or by the youth court prosecutor and the contents thereof shall be kept confidential and shall not be disclosed except as provided in Section 43-21-261.”); Miss. Code Ann. § 43-21-257(1) (“Unless otherwise provided in this section, any record involving children . . . and the contents thereof maintained by the Department of Human Services or the Department of Child Protective Services, or any other state agency, shall be kept confidential and shall not be disclosed except as provided in Section 43-21-261.”); Miss. Code Ann. § 43-21-259 (“All other records involving children and the contents thereof shall be kept confidential and shall not be disclosed except as provided in section 43-21-261.”).

any unauthorized disclosure by Plaintiffs or their clients to the Judge. Plaintiffs advise their clients not to talk about their cases, share their records, or even mention their involvement with CPS or DHS to avoid jailing, a fine, contempt, or any kind of formal or informal retaliation.

22. Mississippi's confidentiality scheme, and especially the criminal penalties for violating it, silences parents and children. It prevents them from seeking support in some of the most traumatic moments of their lives because they fear prosecution or that they will never be reunited with their children. It also prevents them from identifying witnesses and evidence that could be important for their defense, and sometimes chills defense lawyers from seeking technical assistance from OSPD, or my colleagues, Plaintiff Morgan, and/or Plaintiff Locke.

23. Under Katharine Surkin, the AOC's current policy and practice is to deny MYCIDS access to any Youth Court attorney and all parents and children with Youth Court cases, absent a court order, even though the statute does not require a court order.

24. Under current practices, when a parent or child, through counsel or on their own, requests access to certain records or information related to their own case, judicial officers exercise broad discretion to decide whether and what to share. Judicial officers routinely exercise their discretion to delay access or deny access entirely to children, parents, and attorneys involved in Youth Court cases.⁴

25. Without a Youth Court order requiring AOC to grant access to MYCIDS, children, parents, and their attorneys cannot access any records for their cases.

26. Sometimes a judicial officer will issue an order authorizing disclosure of one part of the record. In those cases, AOC's policy and practice, under Director Surkin, is to refuse to issue a

⁴ Members of the public certainly cannot obtain records from the proceedings—even with redactions or other safeguards to protect the identities of those involved in the proceedings.

username and password, thus barring *all* access, because it is not possible to give a person access to only part of the record on MYCIDS. The person could try to obtain paper copies of the portions of the record that were ordered disclosed from the clerk's office, but many clerks' offices maintain files only on MYCIDS, per a Mississippi Supreme Court Order issued in May 2015. In those cases, login information from the AOC is the only way to access the records covered by the court order, and AOC will not grant access.

27. AOC has denied or delayed Plaintiffs, other Youth Court attorneys, and parents and children with Youth Court cases access to MYCIDS entirely or in part. Without access, attorneys representing parents or children not only lack access to any and all records associated with their cases, they also do not know when something is filed, when an order is issued, when a deadline is set, or when a hearing is scheduled.

28. On July 1, 2026, the courts' secrecy will become even more extreme because the discretionary and patchwork decisions judicial officers make to deny or delay access for Plaintiffs and their clients will become mandatory and uniform.

29. On July 1, 2026, the exceptions in § 261 will be automatically repealed, and there will be no exceptions to the mandatory confidentiality provisions in the Mississippi code. *See* Miss. Code Ann. § 43-21-261(24) ("The provisions of this section shall stand repealed on July 1, 2026."). Representatives of the Administrative Office of the Courts, youth court judicial officers, CPS, and DHS have stated publicly and privately that they will consider themselves to be barred from providing records or information to *anyone*, including Plaintiffs, other Youth Court attorneys, and their clients.

30. Across the entire state, parents who are bound by youth court orders involving their children will not have access to those orders. CPS will not be able to provide records and

information about children in CPS custody to health insurance providers like Medicaid, children's advocacy centers, medical and mental health providers, schools, foster parents, relatives offering support, and even the youth courts. And CPS may not be able to draw down federal funding because it will not be able to provide the files and information required for auditing purposes.

The Effects of 43-21-261(24) on OSPD and Youth Court Attorneys

31. Youth Court attorneys have a legal and ethical obligation to represent their clients competently.

32. If Subsection (24) goes into effect, Plaintiffs and other Youth Court attorneys will be categorically denied access to Youth Court records, and it will be impossible for them to meet the basic standards of practice that are required by state and federal law—particularly in cases where Plaintiffs and their clients are denied complete access to records.

33. Mississippi law requires all attorneys in youth court to provide “competent representation to the party client pursuant to the Mississippi Rules of Professional Conduct.” Miss. Code Ann. § 43-21-201(4). Rule 1.1 of the Rules of Professional Conduct requires attorneys to ensure “preparation reasonably necessary for the representation.” Without case files and information, attorneys cannot prepare at all. Further, Rule 1.4 requires lawyers to “explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.” Rules of Prof. Conduct, Rule 1.4. Plaintiffs cannot explain anything to their clients if they do not have records and information so that they themselves can understand the case.

34. Without information about CPS's investigation, allegations, and evidence against their Clients, Youth Court attorneys cannot provide effective representation. They are unable to

prepare effectively for hearings. They cannot counsel their clients on their options, prepare a litigation strategy, assess factual disputes, conduct a meaningful investigation, hire relevant experts, or otherwise provide competent representation to their clients consistent with basic ethical rules of professional responsibility.

35. Plaintiffs require records and information to function as Youth Court lawyers. To take a few specific examples, a parent and their attorney must be able to review a petition in dependency court so they can contest the bases for removal. Plaintiffs and their clients need access to forensic reports so they and their clients can fully understand the government's arguments for removal, separation, or termination, identify expert witnesses, and conduct other investigation. In delinquency proceedings, a youth defense attorney needs access to a transfer study so that can build a persuasive case against the government's motion to transfer the child to the adult system. Access to information about clients' prior involvement with Youth Court is necessary in any Youth Court case so attorneys can identify potentially exculpatory evidence and fully understand their clients' situations.

36. On July 1, 2026, Plaintiffs and every other Youth Court attorney will be unable to perform as competent, ethical Youth Court attorneys.

37. On July 1, OSPD as an entity will also be harmed. It will be unable to fulfill key parts of its statutory mandate, including to provide training and one-on-one technical support. There will be little point to OSPD's Parent Defense and Youth Defense Programs if the Youth Court attorneys it is meant to hire, train, and advise cannot do their jobs. OSPD will be unlikely to continue paying contract attorneys if those contract attorneys are unable to provide meaningful representation to clients. OSPD also will not be able to represent clients on appeal if we cannot obtain the trial record and transcripts.

38. Additionally, on information and belief, OSPD's Interdisciplinary Parent Defense Teams will be unable to do their work. The Interdisciplinary Defense Team is composed of a family defense attorney, a parent social work advocate, and a parent partner, who is a person with lived experience in the system. The model depends on information sharing between CPS, the attorney, the social worker, and the parent. If CPS is unable to share any information with the IDT, the parent partner and social worker will not be able to support the parents in finding services or otherwise support the parent's defense.

39. Moreover, OSPD received a grant from Casey Family Programs specifically to run this program. It is unclear whether that grant will be rescinded if the program cannot function. Without the grant money from Casey Family Programs, on information and belief, OSPD may need to lay off several employees.

40. On July 1, 2026, Plaintiffs will be effectively foreclosed from practicing law.

The Effects of 43-21-261(24) on Parents and Children

41. Beginning on July 1, 2026, parents and children involved in Youth Court will no longer be permitted *any* access to their case files, including, for example, court orders telling parents what they must do to reunite with their children, or telling children what court-ordered conditions they must comply with in a delinquency case. Parents whose children are involved in delinquency proceedings will not be permitted to view their children's case files. Attorneys representing children in delinquency proceedings or parents in termination trials will no longer be permitted to access any discovery or information about the allegations against their clients.

42. Without any access to records, case files, and other information about ongoing cases, parents and children will be completely in the dark about why the government is trying to destroy their family or lock up a child.

43. As of July 1, it will be impossible for parents and children to receive adequate notice or to have fair hearings in legal cases impacting fundamental liberty interests, like a parent's right to raise their child, a child's reciprocal right to be raised by their natural parents, and a child's right to be free from state custody, whether as a dependent or delinquent child.

The Effects of 43-21-261(24) on Other Aspects of the Youth Court System

44. Other aspects of the system will also grind to a halt because of subsection (24).

45. CPS will no longer be permitted to share information with the doctors, schools, and caregivers who serve children in state custody, impeding children's education and medical care. Chancellors and referees—who preside over many Youth Court cases around the state—may even be barred from viewing files. And the state may not be able to demonstrate compliance with federal child welfare regulations, which could jeopardize Mississippi's funding for the foster system.

46. In May 2026, the Commissioner of Mississippi's Department of Child Protective Services Andrea Sanders sent a letter to Governor Tate Reeves, asking him to call a Special Session of the Legislature to amend the statute and prevent § 261(24) from going into effect, explaining that the subsection would have catastrophic effects on children, families, and the entire Youth Court system, which cannot function without the exceptions in § 261.⁵ Sanders wrote that if the provision goes into effect, "all legal proceedings involving children in MDCPS's supervision and care would grind to a halt."

47. She is 100% correct.

⁵ Exhibit 1 (Sanders Letter); Anna Wolfe, *Youth Court Confidentiality Should Be Included in Special Session, Officials Urge Governor*, Mississippi Today (May 12, 2026), available at <https://mississippitoday.org/2026/05/12/youth-court-confidentiality-special-session/>.

48. And yet, no Special Session is planned to consider amending § 261. The Mississippi Supreme Court has not taken any action. Youth Court judicial officers around the state have no plan—and perhaps no authority—to forestall the catastrophe, even in their own courts. Despite officials’ acknowledgment, both publicly and privately, that subsection (24) is a ticking time bomb, no one at the state or local level has taken definitive action.

49. As a result, beginning July 1, the state of Mississippi will be free to separate families based on allegations of abuse and neglect, terminate children’s legal relationships with their parents, and arrest and jail children, but those children and families will have no way to meaningfully challenge the government’s actions , even with the assistance of counsel.

50. The system already operates behind a cloak of secrecy because judicial officers have broad discretion to deny attorneys and their clients access to records related to their cases. On July 1, the automatic repeal of the exceptions set forth in § 261 will take the discretionary secrecy of the Mississippi Youth Court system and make it mandatory and uniform.

51. I am aware that, across the country, court systems that decide cases involving children provide all parties and their lawyers with essential and basic access to records and information relating to those cases, so that attorneys who represent clients in these proceedings can contest the state’s allegations, which—if proven—could lead to a child’s jailing and the legal end of a family unit.

52. I am unaware of any harm that has come from these systems requiring the free exchange of information, records, case files, and evidence sufficiently in advance of a hearing that counsel can make use of them. And I cannot think of any harm that would come to AOC or the public from continuing to allow judges to have the discretion to disclose records and information consistent basic due process.

53. The risk of error in a proceeding where one party has an ineffective lawyer and no access to records and information about the state's allegations and the evidence the government intends to use to prove its case is extreme. That is why the United States Supreme Court, the Mississippi courts, and the Mississippi legislature have all guaranteed parties in Youth Court basic procedural protections.

54. Mississippi purports to prioritize reunification in dependency cases and youth rehabilitation in delinquency and CHINS cases. If that's true, then the government has a strong interest in ensuring that any decision to remove a child, permanently separate a family, or lock up a minor is accurate. To ensure accuracy, attorneys and their clients must be able to fairly test the government's case, and that is possible only if the underlying records and information are shared with them.

55. State and local officials across Mississippi have publicly and privately expressed dismay at the imminent, catastrophic effects on children, parents, families, and the Youth Court system as a whole if Subsection (24) goes into effect.

The AOC Controls Access to Youth Court Records

56. In 2015, the Supreme Court issued an order requiring Youth Courts to use the Mississippi Youth Court Information Delivery System ("MYCIDS") for filing and docket management and requiring that all records associated with a Youth Court case be stored in MYCIDS.

57. The AOC, led by Defendant Surkin, controls access to MYCIDS,⁶ and all Youth Court records must be stored in MYCIDS, under AOC's control, pursuant to Supreme Court Order. AOC's current policy and practice is to deny MYCIDS access to any Youth Court attorney and

⁶ Mississippi Youth Court Information Delivery System Information Disclosure Policy, available at <https://courts.ms.gov/trialcourts/youthcourt/webhelp/MYCIDS%20updated%20Access%20Policy.pdf>;

all parents and children with Youth Court cases, absent a court order, even though the statute does not require a court order.

58. Under current practices, when a parent or child, through counsel or on their own, requests access to certain records or information related to their own case, judicial officers exercise broad discretion to decide whether and what to share. Judicial officers routinely exercise their discretion to delay access or deny access entirely to children, parents, and attorneys involved in Youth Court cases.⁷

59. Without a Youth Court order requiring AOC to grant access to MYCIDS, children, parents, and their attorneys cannot access any records for their cases.

60. There is no way to obtain access to the state's Youth Court case management system—and the Youth Court case files that are required to be filed in that system—without obtaining a username and password from AOC. Ultimately, AOC is the custodian of the Youth Court records and controls physical access to those records.

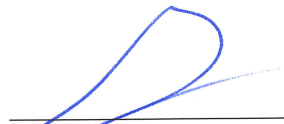
61. Sometimes a judicial officer will issue an order authorizing disclosure of one part of the record. In those cases, AOC's policy and practice is to refuse to issue a username and password, thus barring *all* access, because it is not possible to give a person access to only part of the record on MYCIDS. The person could try to obtain paper copies from the clerk's office for the portions of the record that were ordered disclosed, but many clerks' offices maintain files only on MYCIDS, per the Supreme Court's Order. In those cases, login information from the AOC is the only way to access the records covered by the court order.

⁷ Members of the public certainly cannot obtain records from the proceedings—even with redactions or other safeguards to protect the identities of those involved in the proceedings.

62. AOC routinely denies Plaintiffs access to MYCIDS. Without access, attorneys representing parents or children do not know when something is filed, when an order is issued, when a deadline is set, or a hearing scheduled.

63. I declare under penalty of perjury that the foregoing is true and correct to the best of my ability.

Executed on this 23rd day of June, 2026, at 1:55 p.m..



André de Gruy

