

**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 JENNIFER MORGAN

I, Jennifer Morgan, hereby declare:

1. I am the Family Defense Program Director for the Mississippi Office of State Public Defender (“OSPD”).¹ I submit this declaration in support of the motions for a temporary restraining order, preliminary injunction, and class certification in the above-captioned case. 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.

Background

¹ The terms “family defense” and “parent defense” are interchangeable for purposes of this Declaration.

2. I am admitted to the state bars in Mississippi and Tennessee and have dedicated my career to family defense. As the Family Defense Program Director at OSPD, I provide technical support and training for other Family Defenders and work on appeals and select trial matters.

3. I am the State Defender's representative on boards and task forces, and attend meetings related to Youth Court matters and policy.

4. In 2016, I became the full-time parent representation attorney for Desoto County. I continued in that role until I joined OSPD in 2021. I am a certified Parent Defender and earned my Child Welfare Law Specialist certification in 2019. I have maintained that certification continuously. Upon information and belief, there are at most two other people in the entire state who have this certification, and neither represents parents in Youth Court.

Dependency and Termination Proceedings in Youth Court

5. Judicial officers in Youth Court oversee proceedings against parents accused of abuse or neglect, and whose parental rights the state seeks to terminate.

6. These cases impact parents' fundamental liberty interest in raising their children, and children's reciprocal right to family integrity. Dependency proceedings also implicate a broad range of other important constitutional interests, including rights against government surveillance, rights against search and seizure, the right to associate with extended family and one's community, and the right to associate with siblings.

7. A dependency case proceeds much like a criminal case. It begins with a report of wrongdoing, which can come from anyone.

8. The intake unit of the Youth Court conducts an initial screening. If the report is screened-in, it will be sent to Child Protective Services ("CPS") for investigation.

9. CPS submits its initial findings and a final investigation to the Youth Court judicial officer who generates an intake order based on CPS's report. The court's order can instruct the prosecutor to file a petition, CPS to monitor the family, or for there to be no action taken. If the court instructed the prosecutor to file a petition, then the prosecutor does so. The petition functions like a criminal complaint in that the petition is the initiating document for the case and sets forth the allegations related to why the child is abused or neglected.

10. Generally, the government may not seize a child unless it has obtained written or oral permission from a judicial officer. If the order is given orally, it must be reduced to writing within 48 hours. However, in certain narrow circumstances, the state is permitted to seize a child without any judicial order, so long as a judicial officer authorizes detention within 24 hours of removal. Miss. Code Ann. § 43-21-303(4).

11. The shelter hearing is typically the first hearing in a dependency case.

12. Parents are entitled to counsel at the shelter hearing.

13. However, courts routinely fail to advise parents of their right to counsel, and also routinely fail to appoint counsel if a parent does not request counsel. Even if a parent requests counsel, many counties lack any parent defense attorneys, and courts tell parents they cannot have an attorney because they do not have anyone to appoint. Parents are also informed that it may take longer to be reunited with their children if they insist on counsel. On information and belief, courts routinely fail to inform parents that they can call OSPD to represent them.

14. As a result, it is possible that parents will not have any counsel at all unless and until there is a trial on a petition for termination of parental rights.

15. On information and belief, there are scores of pending dependency and termination cases that do not have any lawyer associated with the parent.

16. Moreover, as with attorneys representing children involved in delinquency and CHINS cases, many attorneys representing parents in dependency and termination proceedings are subject to conflicting incentives. They are hired and fired by the judicial officers in whose courts they earn their living, and are therefore incentivized to please the judge, even at the expense of their clients' interests. They also are subject to court-created payment schemes that pit their personal financial interests against their clients' interests.

17. Parents fear retaliation if they upset the judicial officer presiding over their case. And their fears are reasonable. The Mississippi Supreme Court recently suspended Youth Court Judge Aelicia Thomas, who sits in Bolivar County, for requiring parents to attend a fundraiser in order to be reunited with their children.² Youth Court attorneys report that parents who ask questions and request documents are labeled "difficult," and attorneys who file motions or appeals are labeled as "activist attorneys." Retaliation can be subtle and difficult to pinpoint, but it's real – so real that I counsel my clients, and train other attorneys to counsel their clients, that such litigation may prolong their case. Many clients are deterred from doing anything that could even remotely decrease the likelihood that their families can stay together.

18. At the shelter hearing, a judge decides whether the state lawfully can take a child into custody. Next is the pre-adjudication hearing, during which the parties are permitted to litigate pre-trial motions and discovery requests. The judge may reassess where and with whom the child lives and the parent's visitation right. The adjudication trial follows. This is a formal trial on the merits of the state's allegations. Formal rules of evidence apply, and the state is

² The *See Anna Wolfe, Officials say a youth court judge tried to make parents attend a 'fundraising event' to get their kids back. Mississippi's high court intervened* (Apr. 13, 2026), available at <https://mississippitoday.org/2026/04/13/youth-court-judge-fundraising-event/>; *Mississippi Commission on Judicial Performance v. Aelicia Thomas*, No. 2026-JP-00402-SCT (Apr. 16, 2026), available at <https://law.justia.com/cases/mississippi/supreme-court/2026/2026-jp-00402-sct.html>.

supposed to prove its allegations by a preponderance of the evidence. If the judge makes a finding of neglect or abuse, the judge typically issues an order stating that the child is found to be abused or neglected. A party to the proceeding may request a written opinion setting out conclusions of law and findings of fact and explaining the reasons for the decision.

19. The disposition trial follows. This trial is analogous to a sentencing hearing. The judge is required to consider evidence of the child's "best interests" and decide what will happen next for the family, including whether the child will be kept separated from their family and under what conditions reunification can occur.

20. After the disposition trial, if a child remains in state custody, the court must hold regular permanency planning hearings to evaluate the child's and family's circumstances. At these hearings, the court considers the "best interests" of the child and makes findings about which services have been and should be offered and whether the child's placement is appropriate. If a parent and child are not reunified, the Youth Court will issue an order requiring the government to file a petition to terminate parental rights.

21. Termination hearings result in both an adjudication and a disposition. At the conclusion of a termination hearing, the judge must issue a written order explaining whether the state has proven, by clear and convincing evidence, one of the statutory grounds for termination and that termination is in the child's "best interest."

Access to Records

22. Records related to a dependency or termination case are generated and must be uploaded to MYCIDS throughout the life of the case.

23. Considered stage-by-stage, these records include, but are not limited to the following:

- a. **Intake:** A Court Case Information Form that sets out basic information about the family and the allegations against the parent(s); any records related to cases where a child is not removed and no attorney is assigned, including in-home cases, informal adjustments, and safety plans;
- b. **Shelter hearing:** The emergency custody order authorizing seizure of a child; a shelter hearing court report from CPS; court order setting out results of the hearing and any requirements of the child and/or their parents, and possibly including findings of fact and conclusions of law;
- c. **Adjudication (whether a full evidentiary hearing or admission):** Records reflecting CPS's investigation and findings; all discovery materials (including witness statements, exhibits, school records, cell phone records, and social media records); CPS's adjudication court report, which typically includes the allegations, a family history, a summary of the family's identified needs, a summary of CPS's investigation, and CPS's recommendations for the permanency plan and the parent's tasks and goals; search warrants and returns; expert opinions and the bases for them; drug screen results; court order setting out results of the hearing and any requirements of the child and/or their parents, and possibly including findings of fact and conclusions of law;
- d. **Disposition:** CPS's court summary, adding recommendations for tasks and goals for the family on top of the requirements from the adjudication court summary and adjudication court order; court order setting out results of the hearing and any requirements of the child and/or their parents, and possibly including findings of fact and conclusions of law;
- e. **Permanency Hearings:** CPS's court summary along with any documentation that CPS has gathered relating to the child's health and safety, and any information about parents' progress on tasks or goals; court order setting out results of the hearing and any requirements of the child and/or their parents, and possibly including findings of fact and conclusions of law;
- f. **Foster care review:** Youth Court Hearing and Review Summary;
- g. **Termination of parental rights:** The entire case file for the underlying dependency case, which is assigned a different cause number; discovery; court order setting out results of the hearing and possibly including findings of fact and conclusions of law;
- h. **An appeal:** Copies of all Orders filed to perfect an appeal; transcript of the entire record, including exhibits; copies of briefs, motions, and responses filed in the Supreme Court.

24. The Mississippi Supreme Court requires all of these records and any others related to a dependency or termination case to be filed in MYCIDS. AOC controls my access to MYCIDS and all Youth Court records stored in that system—just as it controls everyone’s access to Youth Court records in the system. AOC’s policy routinely fails to provide me, other family defense attorneys, and parents involved in Youth Court cases with access to case records that we need for cases in which we are counsel or a party. For example, I cannot access case notes on MYCIDS for any clients I represent. Sometimes I eventually obtain access, but that access is delayed. I have personal knowledge of Family Defense attorneys who have been denied access to all case records. I am now and will continue to be subject to AOC’s policies and practices regarding access to Youth Court records. The same is true for my clients and all litigants in Youth Court. As of July 1, 2026, AOC will be prohibited from providing access to any Youth Court records to me, any other family defense attorney, or to any parent involved in a dependency or termination case.

25. These records are necessary for me to provide competent and ethical representation to my clients. For example, a petition in dependency court is required so I can represent my client in contesting the bases for removal. I need copies of court orders to advise my clients on how to comply with the court’s requirements. If the court order shows that a case is closed in the parent’s favor, it will be necessary for the parent to prove to schools, doctors, and others that the natural parent has full rights to the child. Forensic reports are required so that I and my clients can fully understand the government’s arguments for removal, separation, or termination. I also need these reports in order to identify expert witnesses and conduct other investigation. I need records in order to challenge psychological evaluations, drug tests, forensic reports, or witnesses’ credibility. Access to information about my clients’ prior

involvement with Youth Court can provide me with evidence that supports their reunification with their children. I need transcripts, orders, and copies of evidence in order to file an appeal.

26. Without these records, I cannot provide effective or competent assistance of counsel and I cannot meet the basic ethical standards required of attorneys. I cannot prepare effectively for hearings, counsel my clients on their options, prepare a litigation strategy, assess factual disputes, conduct a meaningful investigation, or hire relevant experts.

27. If I cannot access the records and information necessary to contest the government's allegations, the chance that the judicial officer will make the wrong decision is high. Without those records and information, I cannot subject witnesses to effective cross-examination or challenge the reliability of other evidence.

28. When § 43-21-261(24) goes into effect, I will be effectively foreclosed from practicing my profession as a family defense lawyer and the Program Director for the Family Defense Program at OSPD.

29. My clients are particularly vulnerable. They are indigent families whose lives are in crisis, facing separation or other serious consequences. They deserve effective assistance of counsel and a fair hearing. To provide effective counsel, I require access to all of the records associated with my clients' cases. And for them to receive a fair hearing, they need access to their own records.

30. I have spoken with counsel and agree to act as a class representative. I understand the responsibility of prosecuting a class action on behalf of all Youth Court attorneys in Mississippi. I am familiar with the Complaint and the concept of a class action. I am also deeply familiar with the AOC's secrecy policies and practices, and the constitutional rights they violate. I am prepared to respond to discovery requests if needed. I am fully dedicated to fulfilling the

role and duties of a class representative.

Executed on this ____ day of June, 2026, at _____.

Jennifer L. Morgan

Jennifer L. Morgan (Jun 24, 2026 10:05:04 CDT)

Jennifer Morgan

06/24/2026