

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

OFFICE OF STATE PUBLIC DEFENDER;
ANDRÉ DE GRUY;
JENNIFER MORGAN, BRENDA LOCKE,
and A. 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 BRENDA C. LOCKE

I, Brenda C. Locke, hereby declare:

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

2. I am admitted to the bar of Mississippi and have dedicated my career to youth defense.

3. As Youth Defense Program Director at OSPD, I provide technical support and training to youth court defense attorneys representing children alleged to be delinquent or in need of supervision, and direct representation in trial-level delinquency and Child in Need of Supervision (“CHINS”) cases. Plaintiff Locke also has authority to represent clients in appeals. I serve as the State Defender’s representative on boards and task forces, and attend meetings related to Youth Court matters and policies. I assess youth defense needs throughout the state.

4. I spent nearly 15 years representing youth charged with delinquent acts in Jackson County, Mississippi. Beginning in 2012, I served as the Juvenile Resource Attorney for the Mississippi Office of State Public Defender. In that capacity, I planned statewide juvenile defender trainings, frequently presented at juvenile defender conferences, and provided technical assistance to juvenile public defenders across the state. I am a certified Youth Defender Advocacy Program Trainer and a member of the Gault Center Southern Region Advisory Committee.

5. In 2024, I rejoined OSPD as the Youth Defense Program Director. I currently represent clients in Youth Court and will continue to take new cases per the Program’s mandate.

Delinquency and Child In Need of Supervision Cases

6. Judicial officers in Youth Court oversee delinquency proceedings, which are brought against children accused of conduct that would be criminal if they were adults, and “Child in Need of Supervision” proceedings (“CHINS”), which involve children accused of status offenses. Delinquency and CHINS cases proceed much like criminal cases and impact the fundamental rights of children and their families. A delinquency case begins with an allegation of conduct against a minor over the age of ten that, if committed by an adult, would

constitute a crime.¹ CHINS cases involve status offenses, which cannot be charged against adults, and jurisdiction begins at age seven. A finding of delinquency can result in the child's loss of physical liberty and family separation.

7. Children are accused of delinquent acts and CHINS offenses through a complaint transmitted to the intake unit of the Youth Court, typically by a police officer, a school official, the parents themselves, or a private citizen.

8. The Youth Court's intake unit conducts a preliminary inquiry into the allegations and submits a recommendation to the court about how to proceed. A Youth Court judicial officer—who could be a Judge, Chancellor, or Referee—then enters an order for there to be no action, an informal adjustment, a warning or informal counseling, referral to an intervention court, or that a formal charging document—a petition—be filed.

9. If a child is arrested, a judicial officer generally must give oral authorization for custody, and a detention hearing must be held within 48 hours, excluding weekends and holidays. However, Mississippi law also gives police officers an option, under limited circumstances, to take a child into custody without any judicial order, so long as a judge authorizes temporary detention within 24 hours of arrest. Miss. Code Ann. § 43-21-303(4).

10. If a detention hearing is held, the child will be appointed counsel to provide representation at the hearing, and a judicial officer will decide whether the child will be released or detained pending adjudication of the allegations.

11. The adjudication hearing for a delinquency or CHINS case is similar to a criminal trial. It is a full evidentiary hearing, and the rules of evidence apply. At this hearing, a judicial

¹ Some of the most serious offenses by children can be originally filed in adult criminal court, and for a child age 13 or older, cases can be transferred from youth court to adult court following a transfer hearing.

officer determines whether the state has proved, beyond a reasonable doubt, that the child is delinquent or a child in need of supervision and will enter an order with the court's decision. Most delinquency and CHINS cases result in an admission, which is similar to a guilty plea in criminal court.

12. If a child is adjudicated delinquent or a CHINS, the court will proceed to a disposition hearing, which is similar to a sentencing hearing in criminal court. Judicial officers have broad discretion in reaching a disposition. The judge can order the child released; placed with a parent or other relative; placed on probation; sent to treatment; placed in the custody of the state, which in turn can decide whether to assign the child to a "training school" or a different facility; to participate in a youth court work program; placed under house arrest; or sent to a juvenile detention center. The court also can order the child to pay a fine or restitution, suspend the child's driver's license, or require them to register for life as a sex offender. Dispositional options in a CHINS case are similar. All dispositions must be reviewed annually, and the court is permitted to revoke the original disposition and impose any disposition it could have originally ordered.

13. As in criminal court, few issues can be appealed until a disposition is reached. Many orders, including discovery orders, are not clearly subject to interlocutory appeals. As a result, appeals related to the failure to disclose information or documents can take years to resolve.

14. A child in delinquency or CHINS proceedings has a right to effective assistance of court-appointed counsel throughout their case under both federal constitutional law and Mississippi law. *In re Gault*, 387 U.S. 1, 36–42 (1967); Miss. Code Ann. § 43-21-201(1)(b).

15. However, attorneys appointed to represent children in these proceedings have conflicting loyalties. For example, youth counsel who are contracted, employed, or appointed by the Youth Court functionally work for that judge. These attorneys could be fired if the judicial officer decides they do not like how the attorney practices. As a result, defense attorneys are incentivized to represent their clients in ways that avoid jeopardizing their own careers and livelihoods, even if their conduct on behalf of their client is inconsistent with their client's rights and interests. Consistent with these incentives, youth defense attorneys routinely fail to seek authorization for investigators or experts, do not file motions that they expect would irritate or create more work for the judge, and do not appeal the judge's rulings.

16. Retaliation against a child who is labeled "difficult" or their lawyer who may be labeled "activist" can come in the form of a judge detaining a child longer than necessary, placing the child on an ankle monitor or keeping them on the monitor, extending probation, continuing hearings, or adding conditions of release.

17. I counsel my clients, and train other attorneys to counsel their clients, about the risk of retaliation if they talk about their cases or about anything that happens in Youth Court. Many clients are deterred from doing anything that could even remotely decrease the likelihood that their families can stay together.

18. Additionally, judges determine compensation schemes for youth court defenders that pit the defense attorneys' financial interests against the clients' interests in liberty or family reunification. For example, judges decide whether to pay attorneys an hourly rate, at a rate set by the judge, or a fixed fee. Judges also have discretion to approve the retention of experts or investigators and reimbursements relating to their work.

19. More basically, if a child is not detained prior to adjudication, children routinely do not meet their attorneys until just before the adjudication hearing, which takes place up to 90 days after the petition is filed. Children routinely admit to the allegations that day, negating the opportunity for discovery or motion practice. On information and belief, some children do not get attorneys at all.

Access to Records

20. Records related to a delinquency or CHINS case are generated and must be uploaded to MYCIDS throughout the life of the case. Considered stage-by-stage, these documents include, but are not limited to, documents relating to:

- a. **An informal adjustment:** A copy of the informal adjustment agreement, which sets out what a child must do to avoid a petition being filed;
- b. **A detention hearing:** A police report; the risk screening tool and score used by a judicial officer deciding whether to detain a child; school records and any other documents offered by the prosecution to argue for pre-adjudication detention; the court order setting out the results of a detention hearing;
- c. **A transfer hearing:** The report from a transfer study, used to decide whether a child should be transferred to adult court; psychological evaluation; formal charging document, setting out the charges and the motion to transfer; court order setting out the results of the hearing and any requirements of the child and/or their parents, and—if transfer is granted—setting bond and conditions of release;
- d. **Adjudication (whether a full evidentiary hearing or admission):** All discovery materials (including the defendant's statement, witness statements, police reports, delinquent and criminal histories of state's witnesses, lab test reports, notice of and access to exhibits, school records, cell phone records, and social media records); 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;
- e. **Disposition:** Social summary and recommendations for disposition generated by the Department of Youth Services; school records; summary of assessment tool findings; restitution documentation; the youth's youth court history; 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. **A modification of disposition hearing:** Copy of the petition alleging violations of the original disposition order; any documents, a list of witnesses, and witness statements; 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;
- g. **A hearing on a violation of a valid court order in a CHINS case where the court is seeking to detain a child found to be CHINS:** DYS written report containing a review of the child's behavior, a determination of the reasons for that behavior, and a determination that all other dispositions other than secure juvenile detention are inappropriate; court order setting out results of the hearing and any requirements of the child and/or their parents;
- h. **A review (or post-disposition review) hearing:** Typically a report from whoever is supervising the youth; any other document the prosecution or supervising entity wants to present; the disposition order; court order setting out results of the hearing and any requirements of the child and/or their parents;
- i. **An appeal:** Copies of all Orders filed to perfect an appeal; transcript of entire record, including exhibits; copies of briefs, motions, and responses filed in the Supreme Court.

21. The Mississippi Supreme Court requires all of these records and any others related to a delinquency or CHINS case to be filed in MYCIDS, which is the Youth Court case management system. AOC controls all access to MYCIDS, including mine, and routinely fails to provide me, other youth defense attorneys, and parents and children involved in Youth Court cases with full, timely access to Youth Court records in cases in which we are counsel or a party. My access is routinely delayed, and I am aware of other Youth Court defense attorneys who are denied access entirely to all or some records. Additionally, youth in Mississippi have no right to access their own records, so they are dependent on counsel to inspect and copy any records relating to their cases.

22. Without documents, I cannot provide effective assistance of counsel or meet basic ethical standards required of attorneys. I cannot prepare effectively for hearings, counsel clients on their options, prepare a litigation strategy, assess factual disputes, conduct a meaningful

investigation, or hire relevant experts. I cannot challenge psychological evaluations, drug tests, forensic reports, or the witnesses' credibility. Without access to a transfer study, I cannot effectively contest the government's arguments for transferring my client to adult court. Without access to files in prior cases involving my client, I cannot identify potentially exculpatory information. Without access to court orders, I cannot counsel my client about what they must do, for example, to avoid detention or challenge whatever restrictions are imposed. I cannot file an appeal without transcripts, orders, and evidence. My clients also need access to their records to get a fair hearing. Without access, they are hampered in their ability to assist in their own defense, identify issues with the government's allegations, prepare cross-examination of witnesses, or correct facts in reports the government submits.

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

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

25. My clients are particularly vulnerable. They are indigent children whose lives are in crisis, facing detention or other punishments. They deserve effective assistance of counsel. To provide that, I require access to all of the documents associated with my clients' cases.

26. 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 _____.

Brenda C. Locke

Brenda C. Locke (Jun 24, 2026 09:38:28 CDT)

Brenda C. Locke

06/24/2026