

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

AUG 28 2009

Phil Lombardi, Clerk
U.S. DISTRICT COURT

JAMES A. HALL, individually, and as)
parent and next kin of B.H., D.H., J.H.,)
J.H., AND N.H., All Minor Children,)
)
Plaintiffs,)

09 CV - 560 JHP PJC

Case No. _____

vs.)

JURY TRIAL DEMANDED

STATE OF OKLAHOMA, *ex rel.*,)
OKLAHOMA DEPARTMENT OF)
HUMAN SERVICES, SAFENET)
SERVICES, Inc., an Oklahoma nonprofit)
corporation, and DONNA MARY GRABOW,)
an individual.)

Defendants.)

ATTORNEY'S LIEN CLAIMED

COMPLAINT

Plaintiffs James A. Hall, individually, and as parent and next kin of B.H., D.H., J.H., J.H., and N.H., all minor children, against Defendants State of Oklahoma, *ex re.*, and Oklahoma Department of Human Services, allege and state as follows:

I. PARTIES, JURISDICTION AND VENUE

1. Timely and proper notice of this claim was given to the State of Oklahoma, *ex rel.*, Oklahoma Department of Human Services ("DHS") pursuant to the Oklahoma Governmental Tort Claims Act, 51 O.S. § 151 *et seq.*, and no reply or acceptance was made within ninety (90) days thereafter.

2. Plaintiff James A. Hall is a resident of the State of Arkansas and is the natural father of B.H., dob 10/08/97; D.H. dob 10/25/99; J.H. dob 07/12/01; J.H. dob 03/18/03; and N.H. dob 02/11/05 ("Plaintiffs Hall").

3. Defendant Oklahoma Department of Human Services is an Oklahoma state entity

responsible for investigating alleged deprived children and responsible for placement of children in its custody ("Defendant DHS").

4. Defendant Safenet Services, Inc. is an Oklahoma nonprofit corporation doing business in the northern district of Oklahoma.

5. Donna Mary Grabow is an individual resident of Oklahoma.

6. This action arises under the Oklahoma Governmental Tort Claims Act, more particularly 51 O.S. §150, *et. seq.* Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1331 and venue is proper pursuant to 28 U.S.C. §1391.

II. OPERATIVE FACTS

7. On July 22, 2005, the Department of Human Services for the State of Oklahoma filed an action against Crystal Dawn Hall and James A. Hall in the District Court of Rogers County while Crystal Hall, the children's mother was temporarily residing in the Safenet Domestic Abuse Shelter in Rogers County by reason of being admitted to a mental health stabilization unit. DHS took temporary emergency custody of the 5 minor children. Ms. Crystal Hall falsely alleged Mr. Hall had abused her and the children in order to obtain the services provided by Safenet.

8. The emergency show cause hearing was held on July 26, 2005. The Honorable Judge Erin Oquin denied visitation to *either* parent at this hearing until a psychological evaluation of *each* parent was completed.

9. On August 2, 2005, Rogers county filed its petition alleging deprived child status of the 5 children as to *both* parents.

10. Adjudication was initially set for October 3, 2005 for each parent. The mother stipulated to the petition on that day; Mr. Hall's adjudication was passed to December 2, 2005

because he hired new counsel.

11. On October 15, 2005, Mr. Hall presented his psychological evaluation. A hearing on his emergency petition for visitation commenced November 7, 2005 but continued to November 30, 2005, at which time Judge Oquin ordered “therapeutic counseling” to precede any visits whatsoever with him.

12. The December 2, 2005 trial date was continued to December 12, 2005, *sua sponte*, and again on January 9, 2006 to resolve a dispute over DHS records disclosure.

13. The children were adjudicated deprived as to Mr. Hall on January 9, 2006. Child hearsay, common hearsay and numerous prior wrongs and bad acts were admitted into evidence at trial over Mr. Hall’s attorney’s objection. The children did not testify.

14. The State filed neither a notice of intent to present child hearsay under 12 O.S. §2803.1 nor a *Burks* notice under 12 O.S. §2404(b). Mr. Hall expressly prayed for - and the trial court granted - such notice under 2404(b) in his discovery motion.

15. The allegations described at trial had been investigated by McIntosh County DHS between May and July, 2005. McIntosh County DHS concluded abuse was unverified in a letter to Mr. Hall dated July 17, 2005.

16. Mr. James Hall submitted himself to three separate psychological examinations, none of which found him to possess the psychological traits of an abuser. A fourth report by DVIS in Tulsa, Oklahoma made similar findings. Safenet Services attempted to have the examiner of this fourth report terminated by reason of his findings in this case according to reports to the Court.

17. Mr. Hall went more than 1 year with Rogers County DHS refusing to provide ANY visitation between himself and his children. Judge Dean of Mayes County District Court found no

explanation as to the patently unreasonable deprivation of the father's rights which has never been explained by Rogers County DHS.

18. Crystal Hall, the mother, stipulated to the deprived petition, but James Hall, the father, never did and consistently denied any abuse of his spouse or children. No credible evidence of any such claimed abuse has ever been presented to the Mayes County District Court which issued the final decision in this action. Despite this, Mr. Hall voluntarily completed some steps in an ISP, but Rogers County DHS, for unknown reasons, did not recognize Mr. Hall's completion of the required programs in McIntosh County where he then resided.

19. All Rogers County judges recused in all matters involving the father and the case was moved to Mayes County where Judge Gary J. Dean was appointed to hear all matters in September, 2006. On March 26, 2007, Judge Dean ordered the removal of the Rogers County DHS, CASA and the children's attorney. He then moved the case to Mayes County under the jurisdiction of Mayes County DHS and appointed a new, well qualified, experienced and independent attorney for the children, Mr. Gerald R. Lee.

20. On May 30, 2007, Judge Dean dismissed the deprived action as to Mr. Hall, and returned the 5 children to his custody, subject to supervised visitation by the mother, but retained jurisdiction, and DHS supervision of placement with the father for a period in excess of 6 months. This dismissal was in part pursuant to a prior agreement between the former Assistant District Attorney and Mr. Hall's counsel if a favorable fourth psychological report was received from Tulsa County DVIS, and such a report was received. During this supervision period the Mayes County District Court never received any information or report to indicate Mr. Hall was providing anything other than appropriate care for the children, other than inadequate temporary housing. The Court did

receive a very positive report from Tulsa County Family and Children's Services regarding Mr. Hall and children.

21. Judge Dean found that Mayes County District Court had never received any credible evidence that Mr. James Hall had ever committed an act of child abuse or spousal abuse. Based upon the record, the claims of Crystal Hall as to abuse appeared to Judge Dean to have been manufactured or fabricated which resulted in her being eligible to receive services from Safenet Services.

22. Judge Dean found Ms. Crystal Hall to be a person with serious mental health problems, and had what appeared to be a substantial co-dependence with Safenet Services. She would only speak to her DHS case workers through Safenet representatives, who were found to be "less than forthcoming with the Court and DHS in providing information regarding her treatment, activities and progress." Judge Dean went on to find that Ms. Crystal Hall's best interests *may* be served by her residence in a group mental health home setting to assure compliance with proper administration of her medications. The attorney for the children recommended and requested Judge Dean order Ms. Crystal Hall to permit no contact between the children and the then current Director of Safenet Services, Ms. Donna M. Grabow. The Court was concerned from testimony before it that inappropriate email regarding this matter and the children may have originated from a computer located at the Claremore residence of the Director of Safenet Services.

23. After 28 months of pending legal action, Ms. Crystal Hall was still not in compliance with her ISP, and Judge Dean found that by reason of Ms. Hall's mental illness she may never be able to comply and safely care for her children. On December 4, 2007, Judge Dean found that Mayes County DHS recommended the case be dismissed and closed, with the custody of all 5 of the children to Mr. Hall with supervised visitation of the children by Ms. Crystal Hall and same

was thereby ordered.

III. CAUSES OF ACTION

FIRST CAUSE OF ACTION

Oklahoma Department of Human Services violates 42 U.S.C. § 1983 and 14th Amendment to the U.S. Constitution

24. Plaintiffs replead paragraphs 1 through 14 as though fully set forth herein.

25. Plaintiff Hall has procedural due process rights under the 14th Amendment to the U.S. Constitution. These rights were violated by the Defendant by fostering the system set forth above. Plaintiff Hall had his children taken away from him without notice and an opportunity to be heard. Further, Defendant was required to conduct an adequate investigation prior to removal which did not occur and Defendant submitted an affidavit based on omissions and misrepresentations.

26. Plaintiff Hall has substantive due process rights under the 14th Amendment in that he has a fundamental right to the liberty interest in familial association in the care and management of his children. Further, Defendant have placed unconstitutional conditions on Plaintiff Hall by coercing him to submit himself to four separate psychological examinations, none of which found him to possess the psychological traits of an abuser. The Defendant did not have a narrowly tailored compelling interest to take the conduct above and did so anyhow.

27. Defendant DHS proffered inadmissible child hearsay testimony to the Court through the case worker in a Rogers County District Court trial on the adjudication of Plaintiffs as deprived children.

~~28.~~

28. Defendant's reprehensible conduct is violative of 42 U.S.C. § 1983 as a result of the numerous civil rights violations set forth above.

29. Wherefore, plaintiffs pray for judgment against the defendant Oklahoma Department human services in an amount exceeding \$75,000 for physical and mental suffering, pain and anguish, damage of the parent-child relationship, interest and costs, including reasonable attorney fees, and such other and further relief as the Court deems proper.

SECOND CAUSE OF ACTION

Safenet Services, Inc., and Donna Mary Grabow, individually commit negligence in violation of 51 O.S. §151, *et seq.*

30. Plaintiffs replead paragraphs 1 through 29 as though fully set forth herein.

31. Defendants Safenet Services, Inc., and Donna Mary Grabow, acting within the scope of their employment and compensation with the Defendant Oklahoma Department of Human Services had undertaken to provide and render services to Plaintiff James A. Hall's children: B.H., D.H., J.H., J.H., and N.H., all minor children. Defendants Safenet Services Inc. and Donna Mary Grabow were negligent in failing to act reasonably in rendering services to the aforementioned minor children for the protection of said minor children and protection of the parent-child relationship with their father, Plaintiff James A. Hall.

32. Defendant Donna Mary Grabow, acting within the scope of her employment, failed to adequately protect Plaintiffs, and in fact allowed or caused physical and emotional abuse of Plaintiffs while Plaintiffs were residing with their natural mother at Safenet Services, Inc.

33. Defendant Donna Mary Grabow, acting within the scope of her employment, interfered with Plaintiffs' relationship with their father by telling them falsehoods about Defendant Hall and the circumstances surrounding their separation from him.

32. As a result of these Defendants' acts of negligence, as set forth above, Plaintiffs


endured physical and mental suffering, pain and anguish, loss of companionship and damage to the parent-child relationship, and for all the foregoing, Plaintiffs have been damaged in excess of \$75,000, exclusive of interest and costs.

33. The foregoing acts of the Defendants, have been with reckless disregard of the rights of the Plaintiffs and intentionally with malice conscious disregard to the civil rights of Plaintiff James A. Hall and the Plaintiff minor children such that punitive damages in excess of \$75,000 should be assessed against these Defendants.

WHEREFORE, Plaintiffs pray for judgment against Defendants Safenet Services, Inc. and Donna Mary Grabow, in an amount exceeding \$75,000, exclusive of interest and costs for physical and mental suffering, pain and anguish, loss of companionship and damage to the parent-child relationship, interest, costs and attorney fees, and punitive damages in an amount exceeding \$75,000 to deter said Defendants from committing such intentional and malicious acts and omissions in the future.

Dated this 28th day of August, 2009.

Respectfully submitted,

By 
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