

DCB1, et al, vs. Peg Shappell, et al, Case No. 06-60050-civ-Lenard

Firm Sues Florida Dept. of Children & Families, Settles Negligence Case for \$14.26 Million

In *DCB1, et al, vs. Peg Shappell, et al, Case No. 06-60050-civ-Lenard*, attorneys with Colodny, Fass, Talenfeld, Karlinsky & Abate P.A., filed on behalf of 19 children a civil rights complaint in the Southern District of Florida in Miami against nine DCF employees who were responsible the children's adoption or the investigations of the abuse allegations.

On January 26, 2001, DCF removed sixteen minor children and two developmentally disabled adults from the Gainesville, Florida home of Nellie Johnson due to allegations of egregious abuse and neglect. The children, who had all been adopted, reported that they were subjected to horrific abuse: Nellie Johnson repeatedly and without mercy beat them on a daily basis with pipes, boards, and her fists, subjecting them to physical and psychological torture. However, this wasn't the first report that DCF had received that Johnson was abusing her twenty-three adopted children. In fact, over a 10-year period, between 1991 and 2000, DCF received at least 17 reports alleging that Johnson was abusing her foster / adopted children. Although each report contained similar allegations – that Johnson was physically and psychologically abusing the children – DCF, and specifically, the individual defendants, took no action to remove the children or close the Johnson home.

As a result, 19 of the Johnson children filed a civil rights complaint in the Southern District of Florida in Miami against nine DCF employees who were responsible for Johnson's adoption of the children or the investigations of the abuse allegations: *DCB1, et al, vs. Peg Shappell, et al, Case No. 06-60050-civ-Lenard*. Specifically, the civil rights complaint alleged that:

- In 1991, Defendant Peg Shappell, a Palm Beach County DCF adoptions counselor, placed three of the Plaintiffs and their two siblings in the Johnson home in Columbia County. During that year, DCF received two separate reports resulting in the permanent removal of one of the siblings from the home due to the abuse he suffered. Shappell was "hostile" toward the investigator and "failed to answer questions directly" despite knowing that the investigation involved allegations that Johnson was physically abusing children for whom she was responsible. In 1993, DCF received two more reports resulting in the permanent removal of three children from the home due to the abuse they suffered. The Plaintiffs confirmed the abuse to the investigator, who "verified" the allegations. Nonetheless, Defendant Shappell allowed Johnson to adopt the three Plaintiffs in 1993.
- In 1994, Defendant Karen Reale, a Broward County DCF adoptions counselor, placed three of the Plaintiffs, who were between the ages of two and six, in the Johnson home with the other five children already there. DCF received another abuse report in 1994 alleging Johnson was physically abusing the children. Consequently, in 1995, DCF employees in Columbia County issued a directive that no other children were allowed to be placed with Johnson and requested Reale remove the children she had placed in the home. Instead, Reale placed a fourth child (a Plaintiff) in the home and allowed Johnson to adopt all four children. In 1996, Defendant Reale placed three more of the Plaintiffs, who were between the ages of three and ten, in the Johnson home with the other nine children already there. Once again, Reale allowed Johnson to adopt the three Plaintiffs.

- In 1997, Defendant Jackie Kinsley, an Orange County DCF adoptions counselor, placed three more Plaintiffs, who were between the ages of seven and eleven, in the Johnson home with the eleven other children already in there. Johnson at that time had moved to Alachua County. Less than one month after placing the children, DCF received a report once again alleging that Johnson was beating the children in her home and subjecting them to bizarre forms of punishment. The three Plaintiffs placed in 1991 ran away from the home and were placed in shelter care by Palm Beach County DCF. DCF required Johnson to enter into a written agreement regarding the adoption subsidy she was receiving for those three children, who remained in foster care and did not return to her home. Additionally, one of the Plaintiff children still in the home confirmed the physical abuse to Defendant Kirston Sheldon, an Alachua County Child Protective Investigator, and provided her Johnson's paddle that she used to beat the children. Sheldon responded by returning the paddle to Johnson and ignoring the concerns reported to her by Palm Beach County DCF staff. Moreover, Kinsley allowed Johnson to adopt the three children notwithstanding her knowledge of the numerous abuse investigations between 1991 and 1997.
- In 1998, Defendant Wilfredo Cordero, a Highlands County DCF adoptions counselor, placed two more of the Plaintiffs, who were nine and ten years of age, in the Johnson home with the ten adopted children already there. At the time of the placement, DCF was still investigating one of the several abuse reports called in during 1998. In fact, the day after the placement DCF received its twelfth report alleging Johnson was physically abusing the children in her home. One of the Plaintiffs expressed suicidal ideations to Defendant Tim Kicklighter, an Alachua County Child Protective Investigator, because of the severity of the physical abuse he was suffering. Kicklighter did nothing, including having a suicidal child evaluated, and closed his investigation. Two more abuse investigations were commenced and, while those investigations were still pending, Cordero allowed Johnson to adopt the two Plaintiffs.
- In 1999, Defendant Michelle Diamond, an Alachua County Child Protective Investigator, sheltered five of the Plaintiffs, all of whom were developmentally disabled, in the Johnson home with the 17 other adopted children already there. Three more reports alleging Johnson was physically abusing the children in the home were received in 1999 and Diamond was assigned to investigate the last one, which was the fifteenth report DCF had received. Diamond completely failed to perform any type of meaningful investigation and closed the case. Similarly, in 2000, Diamond was again assigned to investigate an allegation that Johnson was physically abusing the children and, as in 1999, took no action and closed the case even though one of the children ran away and was sheltered by DCF.

The State settled all of the Plaintiffs' claims, including a negligence claim in Alachua County against DCF, for a total of \$14,265,000.00. However, no amount of money will ever replace the childhood each child lost and the safety and security of a loving adoptive family each child deserved.