

**IN THE SUPREME COURT  
FOR THE COMMONWEALTH OF PENNSYLVANIA  
MIDDLE DISTRICT**

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**NO. 81 M.M. MISC. DOCKET 2008**

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**IN RE J.V.R.; H.T., A MINOR THROUGH HER MOTHER, L.T.; ON  
BEHALF OF THEMSELVES AND  
SIMILARLY SITUATION YOUTH**

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**BRIEF OF THE COMMONWEALTH  
DEPARTMENT OF PUBLIC WELFARE, AMICUS CURIAE,  
IN SUPPORT OF APPLICATIONS TO FILE ORIGINAL PROCESS FOR  
AN EXERCISE OF EITHER KING'S BENCH POWER  
OR EXTRAORDINARY JURISDICTION**

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## **INTEREST OF AMICUS**

Amicus Commonwealth Department of Public Welfare (DPW) has broad statutory responsibilities in the field of child welfare. These include the duty to “assure within the Commonwealth the availability and equitable provision of child welfare services.” 62 P.S. §701. In addition, amicus DPW has the duty to “offer consultation...to...juvenile courts...concerned with the prevention of juvenile delinquency in the planning and developing of measures to reduce the incidence of delinquency.” 62 P.S. §721(1).

Accordingly, amicus DPW has a powerful interest in the fair and lawful treatment of those accused of delinquent acts.

## ARGUMENT

As explained in detail in the submissions of the applicants herein, the practices of the Court of Common Pleas of Luzerne County with respect to the processing of those youth accused of delinquent acts appear to violate the rights of the accused. In addition, the practices in Luzerne County are likely having a harmful effect on the court-involved juveniles, their families and in turn the Luzerne County community.

According to the Juvenile Court Judges Commission, the rate at which juveniles were unrepresented by counsel in Luzerne County was almost 10 times the state average in 2006 (52.0% vs. 5.6%).<sup>1</sup> This disparity between Luzerne County and other counties in Pennsylvania is so dramatic as to require an inference of a systematic deprivation of the constitutional rights of accused juveniles by the Luzerne County Court of Common Pleas.

Apart from the per se due process injury to all juveniles affected thereby, the due process violations occurring in Luzerne County have very real harmful effects on the juveniles involved, for research has shown that “due process as a protective process has a notable rehabilitative effect.” Jay D. Blitzman, *Gault’s Promise* 9

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<sup>1</sup> Affidavit of Linda Bender (Director Juvenile Justice Information and Technology Division, Center for Juvenile Justice Training and Research, Pennsylvania Juvenile Court Judges' Commission) attached as Exhibit E to the Application of Jessica Van Reeth, H.T. and similarly situated youth for Exercise of King’s Bench Power or Extraordinary Jurisdiction.

Barry L. Rev. 67, 96 (2007). Accordingly, Luzerne County's practices almost certainly have a negative rehabilitative effect on those juveniles who are subjected to them and come away feeling that they had no meaningful opportunity to be heard.

Equally important, the Pennsylvania Juvenile Act commands that juvenile courts should seek "to preserve the unity of the family whenever possible" and instructs that out-of-home placement is warranted only when necessary to protect the youth or in the interests of public safety and those interests cannot be safely met with intensive supervision and services. See 42 Pa. C.S. §6301(b)(1), (3). To that end, most county courts take advantage of the continuum of service options that are available to meet the individual needs of youth in their juvenile justice system that avoid out-of-home placement while meeting the community's safety needs. It is clear from the statistics that Court of Common Pleas of Luzerne County has not.

According to data collected by the Juvenile Court Judges Commission, the rate at which Luzerne County placed juveniles in out-of-home placements was almost 2.5 times the state average in the years 2002 through 2006 (24.5% vs 10.3%). [http://www.jcjc.state.pa.us/jcjc/lib/jcjc/statistics/2006/2006\\_part\\_1.pdf](http://www.jcjc.state.pa.us/jcjc/lib/jcjc/statistics/2006/2006_part_1.pdf).

P. 22. That dramatic differential suggests that many of Luzerne County out-of-home placements were inappropriate and therefore harmful. And there can be no

serious question that the rate of such placements would have been significantly lower if more juveniles had been represented by counsel.

**CONCLUSION**

For the reasons stated above, the applications made by applicants J.V.R. and H.T. should be granted.

Respectfully submitted,

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<b>J.V.R.; H.T., A MINOR THROUGH HER</b>	:	
<b>MOTHER, L.T.; ON BEHALF OF</b>	:	
<b>THEMSELVES AND SIMILARLY</b>	:	
<b>SITUATION YOUTH</b>	:	
	:	
<b>Petitioner</b>	:	
	:	
<b>v.</b>	:	<b>NO. 81 MM 2008</b>
	:	
<b>DEPARTMENT OF PUBLIC WELFARE,</b>	:	
	:	
<b>Respondent</b>	:	

**CERTIFICATE OF SERVICE**

I hereby certify that on this date I served a copy of the foregoing document upon the person below in the manner indicated.

By First Class Mail addressed as follows:

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