

LESSONS FROM LUZERNE COUNTY: POST-DISPOSITIONAL REMEDIES

Youth who appeared before former judge Mark Ciavarella often had no recourse to challenge their adjudications or placements. Under current law, youth had no right to challenge any of Ciavarella's decisions even after it became known that the judge was acting for his own financial gain. The time for filing a traditional appeal had passed and the youth had already served months away from home, their educations disrupted and their lives forever altered.

Even if youth had been able to file a timely appeal, these appeals are largely exercises in futility. Most youth serve their dispositions before any resolution of their appeals and, as the Luzerne County experience so clearly demonstrated, juveniles who are unaware of their right to appeal have no redress once the time for filing an appeal has passed. We recommend an immediate change in the appellate review process to ensure juveniles have a meaningful opportunity to challenge their adjudications.

Require judges to state their reasons for disposition on the record and make sure youth know of their right to appeal.

- In juvenile court, adjudications and dispositions often occur in the same hearing and there are no written decisions. Judges, like Ciavarella, can order youth into secure placement facilities without specifically stating how the placement is to benefit the child or how it furthers the goals of the Juvenile Act.
- Juvenile court judges should state on the record how the ordered disposition in a delinquency case will further Balanced and Restorative Justice goals of the Juvenile Act, balancing community protection, victim restoration, and holding youth accountable while advancing the goals of treatment, rehabilitation or supervision. In cases where the juvenile court judge orders a child placed in a secure facility, the court must state on the record why there is "clear necessity" to remove the child from the home, school and community.
- Juveniles should also be given notice that they have a right to appeal. While attorneys can provide this important function, the court itself should be required to provide juveniles with adequate notice of their rights after disposition.

Provide post-dispositional remedies for youth.

- Post-dispositional remedies, or opportunities for youth to challenge a judge's decision, provide relief from the judicial decisions when an appeal is otherwise unavailable. Post-disposition remedies will enable a youth to raise newly discovered evidence or new legal arguments that have only recently come to light. The General Assembly and Supreme Court should extend post-dispositional remedies to youth comparable to post-conviction relief available to adult offenders.

Make sure appeals are timely and meaningful.

- Currently, youth have little reason to appeal a judge's order because they have usually completed everything the judge ordered long before the appeal is resolved. The point is somewhat moot after the damage has been done.
- The appeals process, including the time the appellate court takes to render an opinion, should take no longer than 90 days to conclude.
- Luzerne County demonstrated that juvenile court involvement can be traumatic. Out-of-home placement under any circumstance is disruptive to a child's schooling, family life and normal developmental trajectory.
- Thus, when juveniles appeal, they should be entitled to seek stays or suspensions of their disposition until the appeal is decided, as long as no immediate need for treatment or supervision exists.