

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

IN RE: J.V.R.; H.T., A MINOR THROUGH: No. 81 MM 2008
HER MOTHER, L.T.; ON BEHALF OF :
THEMSELVES AND SIMILARLY :
SITUATED YOUTH :

ORDER

PER CURIAM

AND NOW, this 11th day of February, 2009, in light of the recent revelation of federal criminal charges and pending guilty plea agreements involving Judges Mark A. Ciavarella, Jr. and Michael T. Conahan, arising from actions committed during their service as Judges of the Court of Common Pleas of Luzerne County, and which actions call into question the propriety of juvenile adjudications and dispositions in Luzerne County during the period of the alleged criminal conduct, this Court hereby assumes plenary jurisdiction over this matter. See PA. CONST. art. V, § 10; 42 Pa.C.S. § 502. The "Motion for Leave to File Motion for Reconsideration *Nunc Pro Tunc*" is **GRANTED**. To the extent the "Motion for Reconsideration of Denial of Application for the Exercise of King's Bench Power or Extraordinary Jurisdiction and to Amend Application" requests leave to amend the initial Application filed at 81 MM 2008, such leave is **GRANTED**.

Furthermore, **the Honorable Arthur E. Grim**, Senior Judge of Berks County, is hereby **APPOINTED** as Special Master to act on behalf of this Court. The Special Master is hereby authorized to review all Luzerne County juvenile court adjudications and dispositions that have been affected by the recently-revealed criminal allegations, specifically including: (1) cases in which Judge Ciavarella committed juveniles to PA Child Care, LLC and Western PA Child Care, LLC; and (2) cases in which it is alleged that

juveniles appearing before Judge Ciavarella were denied their constitutional right to counsel. The Special Master shall then make recommendations to this Court concerning appropriate remedial actions.

The Special Master is authorized to use his discretion to determine the time period properly subject to his review, keeping in mind the twin concerns identified above. The Special Master shall provide notice and an opportunity to be heard to any juvenile whose matter is under consideration, the Luzerne County District Attorney, and any other proper interested party as determined by the Special Master.

The Special Master's duties shall include, but not be limited to:

- 1) Entertaining and disposing of discovery requests filed by appropriate parties;
- 2) Determining whether Luzerne County juveniles appearing before Judge Ciavarella were denied their right to counsel, and if so, identifying the affected juveniles. See In re Gault, 387 U.S. 1 (1987); Pa.R.J.C.P. 151 and 152, and 42 Pa.C.S. § 6337;
- 3) Determining which Luzerne County juveniles were committed to PA Child Care, LLC and Western PA Child Care, LLC by Judge Ciavarella; and
- 4) Once the affected cases are identified, recommending remedial action on an individual basis, a class basis, or both. Relief may include any remedy that may be awarded by a juvenile court or appellate court directly reviewing an adjudication including, but not limited to, expungement, granting new juvenile court proceedings, or finding that the affected juvenile proceedings were void *ab initio*. See, e.g., 18 Pa.C.S. § 9123; In re the Interest of McFall, 617 A.2d 707 (Pa. 1992). With regard to the potential remedy of ordering new proceedings, the Special Master should consider:
 - a) the affected juvenile's present age and whether the juvenile would still be subject to the jurisdiction of the juvenile court, see 42 Pa.C.S. §§ 6302 and 6303; and
 - b) any potential constitutional impediments to retrying the affected juveniles. Cf. Commonwealth v. Smith, 615 A.2d 321, 325 (Pa. 1992) (double jeopardy); Commonwealth v. Dallenbach, 729 A.2d 1218, 1220-1221 (Pa. Super. 1999) (speedy trial).

The Court of Common Pleas of Luzerne County is directed to give the Special Master unlimited access and cooperation to assist him in discharging his duties in a timely fashion. The Luzerne County District Attorney's Office shall also provide cooperation to assist the Special Master in discharging his duties.

The goal of this Court is to determine whether the alleged travesty of juvenile justice in Luzerne County occurred, and if it did, to identify the affected juveniles and rectify the situation as fairly and swiftly as possible. The Special Master is directed to file an Interim Report with this Court within 120 days of the entry of this order.

Jurisdiction is retained.