

FLORIDA SETTLES \$10 MILLION CHILD ABUSE CASE

Dept. of Children and Families knew about on-going 'catastrophically destructive' abuse to three children in their care.

The adoptive parents of three adolescent boys who were sexually abused in one foster home and cruelly disciplined in another, reached a compromise settlement with the Florida Department of Children and Families for \$10 million on October 22, 2007, the eve before a two-day Summary Jury trial was to begin in West Palm Beach.

A specially-set, two-month trial was to start on November 5, 2007 before Palm Beach Circuit Judge Edward Fine. "I've been trying cases against the state of Florida for 23 years, and this is the first time that I have seen DCF try to settle a meritorious case," said SDSBS attorney Lance Block, who with Tallahassee attorney Karen Gievers, represented the boys and their adoptive parents. "Had this case been against a private entity, the settlement would have been for many millions more. But this case was against the government *(Continued on page three.)*

\$10 Million Settlement: NEGLIGENCE

Child abuse case settled for \$10 Million against Florida Dept. of Children and Families.

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and, unfortunately, Florida law allows the government to be less responsible than the rest of us.”

The adoptive parents had brought an action against DCF alleging that the agency was negligent while the boys were in foster care, that DCF had failed to provide appropriate mental health services for the boys, and that it had misrepresented and concealed information about the boys’ conditions from the adoptive parents in order to get them adopted.

The case involved three brothers, now ages 15, 14, and 12, who had been abused and neglected by their biological parents. The boys were placed in the foster care system when the oldest was not quite three years old and the youngest just one month old. Despite warnings from several mental health professionals and social workers, DCF reunited the boys with their mother after a one-year separation. However, within three months the boys suffered further abuse by their mother and were returned to the state’s custody. The mother’s parental rights were then permanently severed and the boys were placed in a succession of foster homes. The younger boys were cruelly disciplined in one of the foster homes where punishment included being locked in a backyard chicken coop at night. All three boys were then placed in the foster home of Hector Rosa, who later pled guilty to the sexual abuse of these boys and an older foster child. Rosa is now serving a life sentence in a Florida prison.

In July 1998, the three boys were adopted. The adoptive parents had been told that the boys had mild to moderate behavioral problems resulting from physical and sexual abuse. They later discovered that the problems of these young boys were far more severe than DCF had indicated. Without proper and intensive psychiatric treatment for the abuse they had suffered, the brothers’ behavior turned violent and suicidal. The adoptive parents were forced to install security equipment in the house to protect the boys and themselves. The parents maintained that the state withheld important information about the boys’ background and that, following adoption, the state had failed to provide adequate mental health services to the boys who all have severe psychiatric diagnoses.

A memorandum written in 2000 by DCF adoption specialist Carol Hutcheson to then DCF district administrator Paul Brown stated: “We need to remember that they [the adoptive parents] are attempting to parent children who were severely damaged while under our care. They have practically given up all aspects of a normal life to accommodate the needs of these kids. We need to communi-

cate to the family that we own this problem with them.”

Dr. Bruce Perry, a child trauma expert who was retained by DCF, testified in deposition that the boys’ care upon entering the foster system was “catastrophically destructive” to each child, and he agreed that DCF’s care for the children was “uncoordinated and disjointed.”

As deposition progressed, Dr. Perry admitted that the state “should settle this case.”

Presently one of the boys is in a group home, another boy is in custody of the Department of Juvenile Justice, and the third child is at home awaiting placement in a treatment facility. The boys’ adoptive father said, “They’re going to require a lot of treatment. I feel like we can really get started with the services that we need. In that sense, it gives us hope. I wish this would’ve come about years ago.” The parents had rejected any consideration of reversing the adoption.

The family will receive \$500,000 right away, the maximum settlement amount in this case that can be made without legislative approval. The remaining \$9.5 million must be approved by the state legislature in 2008 before the entire settlement can be paid. The terms of the agreement include DCF’s full support for legislation on the claims bill, and also require immediate psychiatric care for the boys at prominent, highly-regarded, out-of-state treatment centers.

DCF Secretary Bob Butterworth was quoted as saying, “We must acknowledge wrongdoing when it occurs and then do what we can to make it right.” Mr. Block added, “I greatly respect Governor Crist and Secretary Butterworth, and their respective staffs, for beginning to change the culture that has plagued our state agencies for years when it comes to righting wrongs committed by the state.” Block went on to say, “We tried to get the last administration to resolve this case, and they ignored us. This governor and secretary have helped this family, and it’s good to see.” ■

