

JUSTICE NEWS

Department of Justice

SHARE

Office of Public Affairs

FOR IMMEDIATE RELEASE

Friday, March 13, 2015

Department of Justice Statement of Interest Supports Meaningful Right to Counsel in Juvenile Prosecutions

The Department of Justice today filed a statement of interest in the Superior Court of Fulton County, Georgia, in *N.P. et al. v. The State of Georgia, et al.* The class action asserts that the public defense system in the Cordele Judicial Circuit is so underfunded and poorly staffed that indigent adults and juveniles accused of committing criminal acts are routinely denied their right to legal representation. The department's statement of interest focuses solely on the due process rights of children accused of delinquency. It is the first department filing in a state court action to address the due process right to counsel for children established by the U.S. Supreme Court in *In re Gault*. In *Gault* the court recognized the critical needs of children for guidance and advocacy and the vital role counsel plays in ensuring fairness in delinquency proceedings. More recent Supreme Court decisions have emphasized the differences between adults and children in the criminal justice system. Applying this case law, the department's filing identifies procedural safeguards that must be provided to children who appear before the court.

"For too long, the Supreme Court's promise of fairness for young people accused of delinquency has gone unfulfilled in courts across our country," said Attorney General Eric Holder. "Every child has the right to a competent attorney who will provide the highest level of professional guidance and advocacy. It is time for courts to adequately fund indigent defense systems for children and meet their constitutional responsibilities."

"Every day, in communities across our country, under-resourced public defense systems fail to meet their constitutional obligation to provide effective representation for children," said Acting Assistant Attorney General Vanita Gupta of the Civil Rights Division. "Children who depend on these failing systems often get the poorest representation, relegating them to second-class status in our courts. The systemic deprivation of counsel for children cannot be tolerated."

In *N.P.*, the plaintiffs allege that children in juvenile delinquency proceedings in the Cordele Judicial Circuit are denied their right to meaningful representation and are, at best, provided with "assembly-line justice." They assert that because public defense counsel are understaffed and under-resourced, they often are not appointed on behalf of children, and that children routinely waive their right to counsel without the waiver being knowing, intelligent and voluntary. The plaintiffs claim that the denial is so total that it amounts to a systemic violation of the juveniles' due process right to counsel, as required by *Gault* and the U.S. Constitution.

In its statement of interest, the department asserts that children are denied their right to counsel not only when an attorney is entirely absent, but also when an attorney is available in name only. It provides the court with a framework to assess the plaintiffs' claim that the defendants are depriving young people accused of delinquency of their right to counsel. As the department summarized in the statement of interest, "due process requires that every child who faces the loss of liberty should be represented from their first appearance through, at least, the disposition of their case by an attorney with the training, resources and time to effectively advocate the child's interest. If a child decides to waive the right to an attorney, courts must ensure that the waiver is knowing, intelligent, and voluntary by requiring consultation with counsel before the court accepts the waiver."

N.P. et al. v. The State of Georgia et al. was filed in January 2014 and brought by adult defendants and juveniles accused of delinquency in the Cordele Judicial Circuit. The plaintiffs seek reform to prevent future due process and right to counsel violations.
