



**For immediate release:**

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**American Civil Liberties Union Urges Federal Court to Reinstate Rhode Island Foster Care Reform Class Action**

BOSTON, MA – Writing that a Rhode Island district court “slammed the courthouse doors” on thousands of abused and neglected children in foster care by dismissing a class action brought on their behalf in federal court to reform the state’s failing child welfare system, the American Civil Liberties Union (ACLU) today became the latest children’s and civil rights advocacy organization to file papers urging a federal appeals court in Boston to reverse the lower court’s decision.

In an *amicus curiae* (“friend of the court”) brief filed today in the United States First Circuit Court of Appeals, the Rhode Island affiliate of the ACLU asserted that the federal court system is the appropriate venue for protecting the constitutional rights of children dependent on the state child welfare system—and the need for unimpeded access to the courts is critical.

“The Plaintiffs need the independence and resources of the federal court for a case of this dimension, consequence, and political sensitivity,” says the ACLU’s brief. “Tragically, the Plaintiffs have simply been tossed out of the forum best suited to hear their case.”

The [class action](#) was filed by Rhode Island Child Advocate Jametta Alston, the national child welfare reform advocacy organization Children’s Rights, and local and national co-counsel in June 2007, seeking widespread reforms on behalf of the approximately 3,000 abused and neglected children dependent on the Rhode Island Department of Children, Youth, and Families (DCYF). The children’s complaint alleged that the state violates their rights under the Constitution and federal law by failing to provide them with basic safety, protection, and care—often resulting in serious harm.

The district court dismissed the case in April 2009, ruling that only the law guardians, or guardians *ad litem*, appointed to represent the children in family court could serve as their legal representatives, or “next friends,” in federal court—and that the adults chosen to serve as next friends in the reform class action were inadequate because they did not have current relationships with the children.

Alston and Children’s Rights [appealed that decision](#) on August 10, asserting that there is no legal reason why representatives other than the children’s family court law guardians cannot bring the federal case on their behalf—and that the very failures at DCYF that the class action seeks to correct are responsible for preventing the children from maintaining current relationships with other adults who could represent their interests in court.

The ACLU offered support on this point, echoing a separate *amicus curiae* brief filed last Friday by 15 national children’s legal aid organizations and child welfare law experts. That brief noted that the children’s Family Court guardians *ad litem* may be constrained by legal, political, and other challenges that would prevent them from effectively representing the children’s interests in matters beyond the dependency hearings that are their primary responsibility.

Wrote the ACLU: “The legitimate and vitally necessary efforts of the Next Friends to advocate on Plaintiffs’ behalf and protect their federal rights must not be thwarted merely because the Family Court has previously appointed guardians *ad litem* in distinct and unrelated proceedings. This is especially true where there is clear record evidence that these guardians *ad litem* have not and will not likely challenge DCYF’s actions and omissions because of alleged conflicts of interest.”

Children’s Rights officials welcomed the support.

“Children’s legal advocates, child welfare experts and civil rights groups across the nation agree that the district court’s ruling wrongly forecloses a vital avenue for defending the constitutional rights of children and other vulnerable populations,” said Susan Lambiase, associate director of Children’s Rights. “We continue to believe that the district court erred in denying Rhode Island’s foster children their day in court, and that its ruling should be reversed.”

For more information about Children’s Rights’ campaign to reform the Rhode Island child welfare system, including the full text of the 2007 complaint, the appeal, and the briefs filed this week, please visit [www.childrensrights.org/rhodeisland](http://www.childrensrights.org/rhodeisland).

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**Children’s Rights** is a national organization advocating the reform of failing child welfare systems in the United States on behalf of the hundreds of thousands of abused and neglected children who depend on them for protection and care. Since 1995, Children’s Rights has used legal action and policy initiatives to drive lasting reform in child protection, foster care, and adoption.