

Rose Marie Mitchell

P. O. Box 202
Union City, PA 16438

October 26, 1994

John Fulton
Democratic Legislative
Research Office
Room 618, Main Capitol
Harrisburg, PA 17120

Re: Judicial Reform Hearing on November 10, 1994

Dear Mr. Fulton:

I was disappointed to learn from our telephone conversation on Wednesday, October 25, 1994, that there will not be enough time for me to testify on November 10 regarding the above matter. Therefore, I wish to have the attached information entered as part of the record.

Please refer to (Exhibit A) the letter my daughter wrote to Theodore Nixon, Office of Civil Rights, Dept. of Education, which explains the nightmare she went through. Mr. Nixon claims there is nothing he can do because he does not have authority to interfere with the court. Also there is the form from Children's Services (Exhibit B) why they wanted her placed in a Group Home (truancy), and Judge Fred Anthony's Order (Exhibit C). There are two letters from Dr. Stephen Schell--Exhibit D explains Marla's medical condition, and Exhibit E explaining the surgery Marla needed to help relieve her asthma. I also found information (Exhibit F) which definitely clarifies what was causing my daughter's medical condition. She was neither imagining it nor was I the cause, as this Judge thought.

Please see another Order from Judge Anthony (Exhibit G) which states that Marla could not come home until she improved her grades; that if she really wanted to come home she would do better in school. What right did he have to make such a decision? If this Judge had been so concerned about Marla's education he would have taken a little bit of time to find out that she was in the wrong educational program. She is a gifted artist and needed a Program for the Performing Arts. I also wonder how he could have expected her to do well when she had gone through so much trauma.

Until that time Marla had been spending every week-end and holiday at home. He cut off all visitation. For two months I was allowed only a supervised visit once a week for one hour. Then Judge Anthony wrote the Order regarding her academic performance. At Christmas, if she wanted to spend one week at home, she had to forfeit her week-end visit in January which meant that she could not come home that whole month and that I could not see her. I couldn't take what was being done to her any longer and ended-up in the hospital for three weeks for depression, which also caused me to be out of work for three months and almost losing my job.

John Fulton
Democratic Legislative
Research Office
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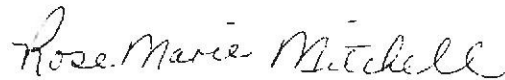
On May 23, 1993, one month before Marla became eighteen years old, she was released from the Juvenile Division of the court system (Exhibit H). This nightmare began when my daughter was only fourteen years old.

This Judge violated two federal laws--Section 504 of the Rehab. Act and the Americans with Disabilities Act. I have been told the Judge is immune--nothing can be done about him. How does he have the right to violate federal laws? How did he attain such authority?

Something must be done to stop the incompetence which exists within the judicial system! No one should be allowed to have the kind of power where there is no accountability when that power has been misused. This is why the situation has become so outrageous. Too many judges are misusing their power because they do not have to answer to anyone.

I want someone to tell us WHY this was done to us. What is so ironic about all of this is that Marla wants an education. She wants to go to UCLA and study film and television. Please tell me what her chances are of being accepted at UCLA, and who will help her to realize her dreams?

Sincerely,



Rose Marie Mitchell

attachments (8)

Exhibit A

P. O. Box 202
Union City, PA 16438

November 20, 1993

Theodore G. Nixon
Division Director
Office for Civil Rights
Region III
U. S. Dept. of Education
3535 Market Street, Room 6300
Philadelphia, PA 19104-3326

Dear Mr. Nixon:

I am filing a complaint against the Union City School District, Union City, PA in violation of the following:

- 1) Section 504 of The Rehabilitation Act
- 2) The Americans with Disabilities Act
- 3) Individuals with Disabilities Education Act/
Education for All Handicapped Children.

Please refer to a complaint filed by my mother, Rose Marie Mitchell, dated July 14, 1993, and further correspondence dated August 19, 1993, and September 26, 1993.

Following is an account of the nightmare that occurred in my life. In March, 1990, the school district in Union City, PA filed truancy charges against me and a Master's Hearing was held, even though the school administration knew that just the previous month I had been hospitalized and diagnosed with asthma. The months of November, December and January I was being treated by a doctor for acute bronchitis. During the month between the Master's Hearing and the Dispositional Hearing, I was referred to an ear, nose & throat specialist who said I needed nasal/sinus surgery to relieve my asthmatic condition. During this time, as well as most of the winter, I was on antibiotics.

Mr. Theodore Nixon
PA Dept. of Education
November 16, 1993
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The specialist had given my mother a drawing of my medical condition to present at the Dispositional Hearing. They said she could have drawn it and that I was imagining my illness. I was placed immediately in a group home. A letter from the specialist arrived one day after the hearing. A Motion for Reconsideration was filed and denied. Meanwhile, I had another appointment with the doctor to discuss my surgery and as a follow-up appointment because I was still being treated by him and on antibiotics. The Director of the group home brought me to the doctor's office where my mother met us and proceeded to follow us right into the examining room. This was done, apparently, because they did not believe that we were telling the truth.

While I was in placement, I had surgery (\$10,000.00) and was allowed to return to my home for two weeks to recuperate and then had to return to the group home. Finally, when it was recognized that I, indeed, had a medical condition, an earlier hearing was scheduled four months after I was placed instead of the usual six month hearing. I was so happy to be released and was looking forward to my sophomore year but when I returned to school the faculty and administration, as well as the social worker at Children's Services, harassed me to the extent that it became increasingly difficult for me to attend my classes and I was again pulled out of my home and this time placed in a foster home. I was sent to another public school system like the previous one.

Six months later, at the next review hearing, it was decided that I was to remain in foster care even though I was going to school and the foster mother informed the court that I had not been any trouble to her. The reason for this decision was my grades. They said, "You are an intelligent person. You should be getting better grades." They tried to blame my mother and discontinued my home visits. This went on for three months until it was realized there was no problem and I was then allowed to come home ~~every other weekend~~ ^{one} with the reasoning that, if I really wanted to come home, I would get better grades.

Finally, I couldn't take it anymore and ran away from the foster home. My mother was told if I was found I would be placed in a detention center for thirty days and then on a wagon train. A month before my eighteenth birthday in May, 1993, I was released from the juvenile court system--a system I should never have been in. I had never been in any trouble and had never caused any problems in school.

I have since completed a Master Art program through the International Correspondence Schools. My artwork was accepted for display at the Erie Summer Festival of the Arts. When I have completed the required courses for my high school diploma, I plan to further my education but am concerned how all this will affect my plans for the future.

The school district set in motion a nightmare that should never have occurred. The trauma they and the social worker at Children's Services inflicted upon me must never happen to another child.

Mr. Theodore Nixon
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As I stated at the beginning of this letter, this school district violated Section 504 of the Rehabilitation Act as well as the others I listed. Section 504 entitles students with asthma and other chronic illnesses to health services and necessary modifications to their regular education program. Section 504 prohibits discrimination in education and employment on the basis of "handicap" which by legal definition includes asthma, a health problem that limits a major life activity (breathing). Policies and procedures that create barriers for students with chronic illnesses violate Section 504.

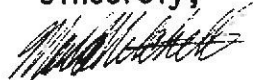
The years that have been taken away from me can never be replaced. The pain and suffering cannot be erased. No one should experience this kind of trauma.

This experience has shaken the very foundation of all my beliefs as a citizen of this country. I had no rights. If everyone was so concerned about my education, why didn't someone just spend a few moments talking with me?

For your information, attached are some of the documents pertaining to this matter. I would also like to file a complaint against the social worker at Children's Services. Do you know who I should direct my complaint to?

Thank you for your assistance.

Sincerely,



Marla Mitchell

attachments

To Be Completed When All Children Are Receiving Court Reviewed Services

LIST CHILDREN IN PLACEMENT/DEFERRED PLACEMENT/IN-HOME COURT REVIEWED:

NAME OF CHILD	PLACEMENT DATE	NAME OF CHILD	PLACEMENT DATE
<u>Marla Mitchell</u>	<u>4/23/90</u>	_____	<u> / / </u>
_____	<u> / / </u>	_____	<u> / / </u>
_____	<u> / / </u>	_____	<u> / / </u>
_____	<u> / / </u>	_____	<u> / / </u>

CIRCUMSTANCES/RISK FACTORS WHICH NECESSITATED PLACEMENT OR REASON FOR CONTINUED PLACEMENT (To include Court reviewed in-home purchase of service programs and deferred placements.) Check all that apply.

- A. Child Abused
- B. Child Neglected
- C. No Caretaker Available Within The Family/Community
- D. Child Incurable (Status Offender)
- E. Parental Incapacity
- F. Parent Refuses To Allow Child To Remain At Home
- G. Child Refuses To Remain At Home:
- H. Child Is A Danger To Self/Others
- I. Truancy
- J. Other (Specify) _____

EFFORTS MADE TO PREVENT PLACEMENT OR TO FACILATE RETURN OF CHILD(REN) TO HOME: (To include Court reviewed in-home purchase of service programs and deferred placements.) Check all that apply.

- A. Attempts To Locate Caretaker Within Extended Family/Community
- B. Referrals To Community Support Systems (Specify) _____
- C. Services Offered In Community Prior To Agency Involvement (Specify) _____
- D. Referrals to Agency Support Systems (Specify) _____
- E. Crisis Intervention Counseling
- F. Casework Services
- G. Parent Aide Services
- H. Other (Specify) _____

IN THE MATTER OF

MARLA MITCHELL

A MINOR

ADJUDICATED DEPENDENT

EXHIBIT C

: IN THE COURT OF COMMON PLEAS

: OF ERIE COUNTY, PENNSYLVANIA

: JUVENILE DIVISION

: NUMBER 23 of 1990

ORDER OF COURT

AND NOW, this 23rd day of April, 1990, a dispositional and a placement review pursuant to Pennsylvania Department of Public Welfare regulations was held in reference to the above-captioned child. At this hearing the Court determined the following:

1. The continuing necessity for and appropriateness of the placement.
2. The extent of compliance with the service plan.
3. The extent of progress made toward alleviating the circumstances which necessitated the original placement.
4. A likely date by which the goal for the child might be achieved.

The Court has further determined through a dispositional review, on the basis of the preceding determinations, whether the child should be:

1. returned to the parents;
2. continued in placement for a specified period;
3. placed for adoption; or
4. because of the child's special needs or circumstances, continued in placement on a permanent or long-term basis, and after hearing, since the child is a dependant child, enter that order of disposition best suited to the protection and physical, mental and moral welfare of the child, which will effectuate the purpose for which the original order of disposition was entered.

It is therefore Ordered that Marla Mitchell be placed under the care and supervision of the Office of Children and Youth for an indefinite period of time and the Court finds that all reasonable efforts were made to prevent placement. The Court further finds that Marla's continuation in her own home would be contrary to her welfare.

It is further Ordered that Marla be placed at Anchor House for a period not to exceed the next six month review hearing.

Ear, Nose and Throat Associates of Erie, Inc.

Head and Neck Surgery — Facial Plastic and Reconstructive Surgery
Suite 320, Professional Building
1611 Peach Street
Erie, Pennsylvania 16501
(814) 456-2031 1-800-448-3198

Sudhir B. Gokhale, M.D., F.A.C.S.
Krishnan K. Nair, M.D., F.A.C.S.

Stephen E. Schell, M.D., F.A.C.S.
Eugene L. Potesta, M.D.

EXHIBIT D

April 24, 1990

Dunlavey, Nichols, Ward and Krill
atten: Raymond A. Pagliari, Esquire
Suite 104
900 State Street
Erie, Pennsylvania 16501-1425

Re: Marla M. Mitchell
D.O.B. 6/19/75

Dear Mr. Pagliari:

I have seen Marla Mitchell at the request of Phillip E. Gallagher, M. D. on the 9th of April, 1990 and also on the 18th of April.

She has had complaints of having a long history of sinus disease which correlates with weather changes. She has been on numerous antibiotics and Prednisone. Marla snores and has poor sleeping habits.

Currently, her nasal anatomy shows a deviated septum with a posterior spur into the left lateral nose. A CT Scan was reviewed which showed a deviated spur into the left middle meatus. The septum is quite thick and the inferior turbinates are quite engorged.

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Re: Marla Mitchell
April 24, 1990

Based on her chronic changes, that is the anatomical changes as described above, it is consistent that this patient would have recurrent sinus disease with chronic headaches which could exacerbate her underlying asthma and bronchitis and cause her to miss quite a bit of school.

Hopefully this letter will be of help to you in dealing with Marla Mitchell's case.

Sincerely,

A handwritten signature in dark ink, appearing to read 'S.E. Schell', with a stylized flourish at the end.

Stephen E. Schell, M. D.

SES/dwm

Ear, Nose and Throat Associates of Erie, Inc.

Head and Neck Surgery — Facial Plastic and Reconstructive Surgery
Suite 320, Professional Building
1611 Peach Street
Erie, Pennsylvania 16501
(814) 456-2031 1-800-448-3198

Sudhir B. Gokhale, M.D., F.R.C.S.
Krishnan K. Nair, M.D., F.A.C.S.

Stephen E. Schell, M.D., F.A.C.S.
Eugene L. Potesta, M.D.

EXHIBIT E

July 25, 1990

Dunlavey, Nichols, Ward & Krill
Attorneys and Counselors at Law
atten: Raymond A. Pagliari, Esq.
Suite 104
900 State Street
Erie, Pennsylvania 16501-1425

Re: Marla M. Mitchell
D.O.B. 6/19/75

Dear Attorney Pagliari:

I am sending this letter addressing Marla Mitchell's problem:

1. Her pre-surgical diagnosis is a deviated nasal septum and chronic rhinitis with middle meatal anatomical changes.
2. The surgical procedure performed was a Septoplasty, Inferior Turbinate Surgery, Nasal Antral Window, Adenoidectomy and Subtotal, Bilateral Ethmoidectomies. The benefit of the surgery is to establish better nasal breathing and better sinus drainage.
3. Marla's recovery from surgery has been going well. Her headaches are gone, the splints were removed and her septum is midline and breathing is normal.

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Re: Marla Mitchell
July 25, 1990

4. I do feel there could very well be a relationship in this child's school absences and her symptoms of headache due to the above underlying condition which is both nasal and sinus obstruction.
5. I have to be very sincere in saying Marla and her mother have been very compliant in respect to follow-up and surgical recommendations.

Hopefully this letter will be of help to you in dealing with Marla Mitchell's case and I tried to make it very brief and to the point to address the five issues which you outlined in your letter dated July 19, 1990.

Sincerely,



Stephen E. Schell, M. D.

SES/dwm

HOUSE CALLS

UNUSUAL TRIGGERS OF ASTHMA: THE NOSE AND SINUSES

By Gordon Raphael, M.D.

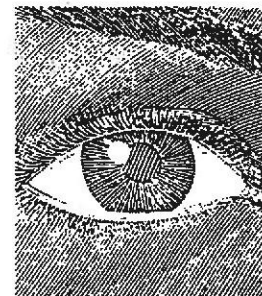
Many environmental factors can trigger or worsen asthma in the asthmatic child. Upper respiratory infections, vigorous exercise, and inhalation of cold air, dust, or pollen are all common triggers of asthma attacks. What is not commonly appreciated, however, is that allergic reactions in the nose (hay fever) and sinusitis can significantly worsen or potentially produce asthma attacks in the otherwise stable asthmatic patient.

The upper airways (nose, sinuses, and back of the nose and throat) interact with many other organs in the body through a complex neural network.

When nerves in the upper airways are irritated, nasal reflexes may be stimulated.

Like the knee jerk reflex, in which hitting the knee tendon with a hammer (the stimulus) causes the lower leg to jerk upwards (the response), nasal reflexes are produced by activating the sensory nerves in the nose (the stimulus) producing changes in the throat, heart, lungs, and other organs (the response). (An example of a common nasal reflex is the sneeze reflex, where inhaling an irritant into the nose produces a forceful sneeze.) Nasal reflexes can cause narrowing of the airways in the lung, producing or aggravating asthma.

Allergic hay fever, infections (viral or bacterial), and sinusitis are upper airway illnesses which can trigger asthma attacks by stimulating nasal reflexes. A feature common to all three ailments is that they produce inflammation. Inflammation is produced when noxious chemicals are released from cells in the upper airways, causing local swelling, erosion of tissue, secretion of mucus, and irritation of nerve endings, triggering nasal reflexes



and producing asthma.

The symptoms, signs, and treatment of hay fever have been covered previously (*MA Report*, April 1989).

Infectious rhinitis and sinusitis have overlapping symptoms and signs that include a sore nose and throat, nasal congestion, runny nose (initially watery, then thicker and discolored), postnasal drip, and pain or pressure in the cheeks, teeth, forehead, or behind the eyes. In children, the symptoms of sinusitis may be subtle, and often consist only of a persistent cough and/or bad breath.

Treatment for asthmatics with hay fever and/or sinusitis should include measures that reduce or prevent inflammation. For example, cromolyn may be used to prevent the release of inflammatory mediators in hay fever and sinusitis.

Finally, as the cold season approaches, remember that the nose is a major portal of entry for allergens and viruses. Therefore, the next time you hear wheezing in the chest, don't overlook the nose and sinuses as the possible culprit.

Dr. Gordon Raphael is an allergist in private practice, and is affiliated with the Allergic Diseases



Section of the National Institute of Allergy and Infectious Diseases, Bethesda, Maryland. He has conducted research in hay fever and sinusitis since 1984.

EXHIBIT G

IN THE MATTER OF : IN THE COURT OF COMMON PLEAS
MARLA MITCHELL : OF ERIE COUNTY, PENNSYLVANIA
A MINOR : JUVENILE DIVISION
ADJUDICATED DEPENDENT : NUMBER 23 of 1990

ORDER OF COURT

2) Ms. Mitchell is to continue to pay twenty-nine dollars and eighty-five cents (\$29.85) per week.

3) Visitation between Marla and her mother will continue to be granted on the basis of Marla's academic performance with visitation to occur one weekend per month or two day-long visits per month.

It is further Ordered that Marla and Ms. Mitchell receive more intensive counseling with sessions to be scheduled every other week. If their present psychologist cannot provide more frequent and intensive counseling as Ordered, another counselor is to be located. Marla's foster mother, Mrs. Scott, and the CASA worker, Lisa Krogulecki, are to meet with the psychologist prior to the next scheduled session.

It is further Ordered that the Court approves the visitation as indicated in the treatment plan with the assumption that if Marla really wants a visit, she will comply with the conditions. The Court will allow for extended visitation during the upcoming holidays; however, a letter is to be submitted to the Court in December specifically addressing a recommendation for Christmas visitation. This letter should also address the family's compliance with the Court Order and the treatment plan.

It is further Ordered that the CASA worker remain involved in this case.

A TRUE COPY WAS FILED
ATTEST David B. Wiley
DEPUTY CLERK OF RECORDS
BY COMMISSIONER OF COURTS AND JUDICIAL SERVICES

ORIGINAL SIGNED BY JUDGE ANTHONY

IN THE MATTER OF : IN THE COURT OF COMMON PLEAS
MARLA MITCHELL : OF ERIE COUNTY, PENNSYLVANIA
A MINOR : JUVENILE DIVISION
ADJUDICATED DEPENDENT : NUMBER 23 of 1990

ORDER OF COURT

AND NOW, this 22nd day of November, 1991, a placement review pursuant to Pennsylvania Department of Public Welfare regulations was held in reference to the above-captioned child. At this hearing the Court determined the following:

1. The continuing necessity for and appropriateness of the placement.
2. The extent of compliance with the service plan.
3. The extent of progress made toward alleviating the circumstances which necessitated the original placement.
4. A likely date by which the goal for the child might be achieved.

The Court further determined through a dispositional review, on the basis of the preceding determinations, whether the child should be:

1. returned to the parents;
2. continued in placement for a specified period;
3. placed for adoption; or
4. because of the child's special needs or circumstances, continued in placement on a permanent or long-term basis, and after hearing, since the child is a dependent child, enter that order of disposition best suited to the protection and physical, mental and moral welfare of the child, which will effectuate the purpose for which the original order of disposition was entered.

It is therefore Ordered that Marla Mitchell remain under the care and supervision of the Office of Children and Youth for an indefinite period of time with continued placement in the Scott foster home for a period not to exceed the next six month review hearing.

It is further Ordered that the Agency treatment plan is approved, specifically that:

- 1) Ms. Mitchell and Marla are to continue counseling in Meadville.

EXHIBIT H

IN THE MATTER OF

MARLA MITCHELL

A MINOR

ADJUDICATED DEPENDENT

: IN THE COURT OF COMMON PLEAS

: OF ERIE COUNTY, PENNSYLVANIA

: JUVENILE DIVISION

: NUMBER 23 of 1990

ORDER OF COURT

AND NOW, May 4, 1993 it is Ordered that Marla Mitchell be discharged from the care and supervision of the Office of Children and Youth and the jurisdiction of the Court.

~~ORIGINAL ISSUED BY JUDGE MITCHELL~~

J.

A TRUE COPY AS FILED

ATTEST

Patricia A. Legner
DEPUTY CLERK OF RECORDS

MY COMMISSION EXPIRES THE FIRST MONDAY IN JAN. 1994