HARTFORD Advocate

So When Kids In The System Turn 18, DCF Just Drops Them Off At Homeless Shelters? WTF?

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The state Supreme Court helps kids by taking away a DCF legal stall tactic

When Bill (not his real name) turned 18, the state Department of Children and Families dropped him off at a homeless shelter for the night.

“I wasn’t able to go to the court and say, ‘Oh my God, can you believe what just happened to my client?” recalls attorney Sarah Eagan. “If I knew I could go to court, I would have said [to DCF], ‘Look, you parented this child since he was 12 and you can’t, at 18, put him in a shelter.” Instead, Eagan made dozens of phone calls to get her client into an appropriate treatment center.

Cases like Bill’s — 18-year-olds in the custody of DCF — can now be heard in front of juvenile court thanks to a recent state Supreme Court decision. That may not seem like a big deal, but child advocates are calling it a victory.

“I think it’s a very important decision,” says Eagan, who runs the Child Abuse Project at the Hartford-based Center for Children’s Advocacy.

For the past several years, DCF has been arguing in juvenile courts across the state that juvenile court does not have jurisdiction to hear cases brought by kids 18 or older. Years before Bill’s case, Eagan brought a similar case to juvenile court in Hartford. Her client needed services from DCF that he wasn’t getting. Instead of arguing about her client’s needs, DCF argued about whether or not the case should be heard in juvenile court. At a hearing, the judge gave each side’s attorney two weeks to write a legal brief.

In the end, the judge sided with DCF. During that two-week period, Eagan’s client just waited around. “That’s why I didn’t go to court when [Bill] had a homeless issue,” she says. “It would have been a waste of time.”

State Child Advocate Jeanne Milstein says this is a legal stall tactic that was widely used by DCF and she’s happy that the state Supreme Court has said DCF can’t use it anymore. It forced attorneys to “spend all this time fighting a jurisdictional issue instead of helping the child,” she says. “They’re lined up against the child they’re supposed to protect.”

Attorney Anne Blanchard thought this problem was taken care of back in 2003. Blanchard is the litigation director for Connecticut Legal Services, a nonprofit organization that provides legal help to the poor. In 2003, Blanchard brought a case — in re Shonna K. (legal cases about kids in DCF’s care do not identify their last names) — to the Appellate Court.

In that case, Shonna had severe mental illnesses and had been under DCF’s care since a young age. In early July 2001 as she was about to turn 18, Shonna filed an injunction to prevent DCF from transferring her to the care of the Department of Public Health until DCF found her a community placement with 24-hour support. In late July, Shonna and the state entered into an agreement and she was sent to a placement. That placement didn’t work out and when Shonna filed court papers asking to be transferred to another placement, DCF argued that juvenile court didn’t have jurisdiction because Shonna was now 18 and no longer a juvenile.

The lower court agreed. Shonna appealed. The Appellate Court ruled that even though Shonna was 18, juvenile court was still the proper court to hear her case. Since then, "DCF continues to bring cases saying the juvenile court can't make orders," says Blanchard.

The state Supreme Court decision relies on Shonna K., but the person behind the new decision — Matthew F. — didn't get what he needed. The case, in re Matthew F., states that Matthew and an unrelated girl were adopted by one family. They both developed severe mental illness that their adoptive parents couldn't manage on their own. The parents enlisted help from DCF when Matthew was 14. DCF concentrated its help on Matthew's sister, despite his parent's repeated requests for assistance with Matthew also.

In 2007, Matthew set fire to his home and later to the rental where his family moved while their home was being renovated. He was arrested and placed in Manson Youth Institution, a DCF-run facility for boys convicted of crimes. In late February 2008, one month before he turned 18, Matthew and his attorney filed paperwork in juvenile court asking for Matthew to be committed to DCF because his family couldn't provide the specialized care he needed.

The juvenile court put off a decision until April so that a social worker could evaluate Matthew. At the April hearing, DCF argued that since Matthew was about to turn 18 it wasn't possible to place him anywhere. Matthew was about to "age out" of the system. DCF suggested Matthew seek help from the state Department of Mental Health and Addiction Services (DMHAS). The judge disagreed and ordered Matthew committed to DCF's care for the meantime and ordered DCF to eventually transfer him to DMHAS.

After he turned 18, Matthew asked the juvenile court to not let DCF transfer him to DMHAS immediately. DCF said juvenile court couldn't rule on Matthew's request because Matthew was already 18. The judge agreed with Matthew. DCF appealed. The state Supreme Court ruled "we conclude, that ... Superior Court for Juvenile Matters may exercise jurisdiction after a [DCF] committed youth has turned 18."

But, the decision says, DCF's care for people over 18 only applies to those committed to DCF before they turned 18 and those who remain in school. Matthew said he was a full-time special education student, but never offered any proof. Therefore, the court said, DCF did not have to continue offering services to Matthew.

"Our legal staff is reviewing the Matthew F. decision and will be meeting with the attorney general's office regarding the implications of this decision on our case practice," says DCF spokesman Josh Howroyd. "This is a complicated decision and we're in the process of sorting out its finer points."

The decision makes sense, say attorneys, because judges in juvenile court are often intimately aware of the circumstances surrounding kids in DCF's care. Context and continuity is important in these cases, they say. More broadly, the decision "is asking DCF to be a more responsible parent or caregiver," says child advocate Milstein.

Milstein has been at odds with DCF for years — her two-person agency investigates wrong-doing at the department. One DCF practice she finds deplorable is the agency's habit of "dumping" kids on their 18th birthdays. "This really spotlights the current practice of DCF transferring kids on their 18th birthday to nowhere. Now they'll have access to juvenile court to stop improper terminations." (All kids in DCF's care are eligible for DCF assistance until they reach age 21 if they are still in school.)

The kids who need DCF's help at age 18 are the most vulnerable, says attorney Blanchard. They tend to be the ones with mental health issues. "So many of these kids who don't get help are just transitioning from DCF to homeless shelters," says Blanchard.