

STATE OF VERMONT  
WASHINGTON COUNTY, SS.

SUPERIOR COURT OF VERMONT  
DOCKET NO. S-11-85Wnm

E.B., E.K., B.M., E.S., AND R.T.,  
minors, by their next friend, Pam  
Sweeney; on behalf of themselves  
and all others similarly situated  
Plaintiffs

E.B. v. Young



JI-VT-001-002

vs.

WILLIAM B. YOUNG, Commissioner of  
Social and Rehabilitation Services,  
and

STEPHEN P. COULMAN, Director  
Juvenile Detention Unit,  
Defendants

SUPERIOR COURT OF VERMONT  
WASHINGTON COUNTY  
MAY 9 11 10 52

ORDER

This matter came on for hearing on Friday, May 3, 1985 on cross motions for summary judgment. Plaintiffs were represented by guardian ad litem, Pam Sweeney, and Kenneth A. Schatz, Esq. Defendants were represented by Michael O. Duane, Esq.

Whereas this action has been certified as a class action with the class consisting of all minors in the custody of the Commissioner of Corrections who are or in the future may be confined in the Juvenile Detention Unit by defendants' administrative action and, after consideration of the stipulation of facts, memoranda, and argument of all parties;

It is hereby ORDERED that:

1. This Court has jurisdiction to hear this class action and grant declaratory and injunctive relief.
2. The Court finds the facts as set forth in the stipulation of facts agreed to and filed by the parties, and the same are incorporated and made a part of this Order.

3. Summary Judgment is appropriate as there are no genuine issues as to any material facts, and plaintiffs are entitled to judgment as a matter of law.

4. The Court finds and concludes that the confinement of plaintiffs in the Juvenile Detention Unit deprives plaintiffs of their liberty. As set forth in the stipulation of facts, confinement in that institution results in a substantially changed position for plaintiffs after previously being placed by defendants in family homes, foster homes, or group homes, where their liberty was not restricted to the same extent as in the Juvenile Detention Unit.

5. The Court finds and concludes that minimum due process safeguards are necessary to insure that the liberty interests of plaintiffs are not arbitrarily abrogated.

6. The Court hereby declares that defendants' practice and policy of confining minors in the custody of the Commissioner of Corrections in the Juvenile Detention Unit without procedural safeguards violates the juveniles' rights under the due process clause of the Fourteenth Amendment to the United States Constitution and Chapter I, Article 10 of the Vermont Constitution.

7. The Court further declares that defendants' practice and policy does not comply with Vermont's juvenile law, 33 V.S.A. §657.


8. Defendants are hereby permanently enjoined from confining youths in the Juvenile Detention Unit without an order of a juvenile court pursuant to 33 V.S.A. §§641 - 643 or procedural safeguards including the following:

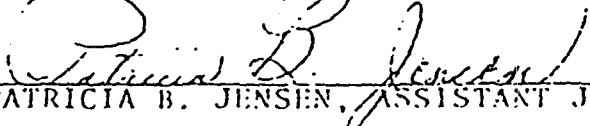
- a. written notice of charges
- b. consultation with independent interested adult
- c. right to legal representation
- d. disclosure of evidence
- e. opportunity to be heard
- f. a neutral and detached hearing body
- g. a written statement by the fact finder as to the evidence relied upon and the reasons for the action taken.

9. As to those plaintiffs currently confined in the Juvenile Detention Unit, defendants are hereby enjoined from continuing to confine them beyond Friday, May 10, 1985, without an order of a juvenile court or the procedural safeguards described in paragraph 8.

DATED at Montpelier, Vermont this 8<sup>th</sup> day of May, 1985.

  
ALAN W. CHEEVER, PRESIDING JUDGE

  
WILLIS C. BRAGG, ASSISTANT JUDGE

  
PATRICIA B. JENSEN, ASSISTANT JUDGE