

**IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA
CIVIL DIVISION**

VALERIE PATTERSON

Petitioner,

V.

**ALABAMA DEPARTMENT OF HUMAN
RESOURCES,**

**MOBILE COUNTY DEPARTMENT OF
HUMAN RESOURCES,**

ASSISTANT ATTORNEY GENERAL

SONYA CRAWFORD, individually,

FERREN PRYOR, individually and

PAMELA JONES, individually ET. AL

Respondents.

CV17- 296

**PETITION FOR EX PARTE TEMPORARY RESTRAINING ORDER AND
MOTION FOR PRELIMINARY INJUNCTION**

COMES NOW, the Petitioner, Valerie Patterson, a resident of Mobile County, Alabama, and hereby files this Petition for Ex Parte Restraining Order, against the Respondents, The Alabama Department of Human Resources, Mobile County Department of Human Resources, Assistant Attorney General Sonya Crawford, in her official and in her individual capacity, Pamela Jones, in her official and in her individual capacity, Ferren Pryor in her official and individual capacity and all officers, agents, servants, employees, attorneys, and those in active concert and participation with the Mobile County Department of Human Resources and/or Alabama Department of Human Resources. In support of said request, the Petitioner would show as follows:

1. The Petitioner, Valerie Patterson, is a resident of Mobile County, Alabama and is over the age of nineteen (19).
2. Subject matter and personal jurisdiction over the parties are proper before this Honorable Court.
3. The Mobile County Department of Human Resources is an agent for the Alabama Department of Human Resources, with an office in Mobile County, Alabama.
4. Pamela Jones is a social worker with the Mobile County Department of Human Resources.
5. Ferren Pryor is a supervisor of social workers with the Mobile County Department of Human Resources.

6. Sonya Crawford, Esq. is an Assistant Attorney General for the State of Alabama and represents the Mobile County Department of Human Resources.
7. That on or about September 19, 2017, Pamela Jones, Ferren Pryor, Supervisor, and the Mobile County Department of Human Resources entered into a voluntary agreement with the Petitioner Valerie Patterson, regarding Patterson's daughter, A.T.
8. The voluntary agreement stated explicitly that "pending criminal charges are not against the child A.T. or any other child in the home of Valerie Patterson, and the allegations being investigated by DHR are not based upon any actual physical abuse or neglect directed toward A.T. at this time."
9. DHR has made unfounded and fraudulent claims that the minor child is dependent as defined in Code of Alabama §12-15-102 (8)(a)(6) and (8)(a)(8). Ala. Code §12-15-102 (1975) defines a dependent child as "a. A child who has been adjudicated dependent by a juvenile court and is in need of care or supervision and meets any of the following circumstances:...(6.) Whose parent, legal guardian, legal custodian, or other custodian is unable or unwilling to discharge his or her responsibilities to and for the child...or (8.) Who, for any other cause, is in need of the care and protection of the state."
10. As part of their claim DHR has asserted that the minor child is dependent simply because Ms. Patterson was arrested.
11. In the State of Alabama, and in the United States of America, "[a] person accused by the United States of committing a crime is presumed innocent until proven guilty **beyond a reasonable doubt.**" *Kaley v. United States*, 134 S.Ct. 1090, ___ U.S. ___, 188 L.Ed.2d 46, 82 U.S.L.W. 4110, (2014)(emphasis added); *see also Edwards v. State*, 139 So.3d 827, (2013)(an individual is presumed innocent until proven guilty).
12. Ms. Patterson has been released on bond, and is presently caring for her minor child A.T. Ms. Patterson has not yet been indicted for the pending charge.
13. DHR asserts that an accusation of criminal conduct is sufficient to remove this child from her mother's custody and care, even in the absence of allegations of abuse, neglect or harm against the minor child A.T or even related to her.
14. DHR would have this child removed when there has been absolutely no allegation of abuse or neglect related to this child.

15. DHR is interfering with the constitutional rights of a parent.
16. DHR is interfering with the custodial rights of a parent.
17. DHR has interjected itself in this instance based on nothing more than an arrest. This sets a very dangerous precedent, which would allow DHR to remove children from every home where a parent is arrested, whether that arrest was lawful or not.
18. DHR is not adhering to their administrative policies and procedures in this case.
19. Sonya Crawford is acting beyond the scope of her duties.
20. Ferren Pryor is acting beyond the scope of her duties.
21. Pam Jones is acting beyond the scope of her duties.
22. In DHR's petition, DHR acknowledged "the assessment thus far has not revealed that the child is in immediate danger at this time."
23. Further, the voluntary agreement provided that Valerie Patterson and her child A.T. were permitted to reside together with contact voluntarily supervised.
24. Through the attorneys, special precautions were taken to restrict DHR's access to Valerie Patterson and the child. The supervisor, Ferren Pryor, and social worker Pam Jones, with advice of counsel Sonya Crawford, agreed that before conducting any professional evaluations needed to understand family conditions which are influencing child safety, Pryor, Jones, Crawford or any other DHR employee must first provide proper and timely notice, being 8 hours advance notice, to Ms. Valerie Patterson through her attorney and obtain consent or authorization prior to such a meeting or evaluation being scheduled or conducted.
25. The Department has refused to comply with their own agreement and stipulations.
26. The agreement was to remain in effect until such time as the criminal matter is resolved, or the agreement is terminated or otherwise modified.
27. Valerie Patterson has never relinquished her parental rights or sole custody of A.T.
28. Valerie Patterson has never been "indicated" as to abuse, mistreatment, or neglect of A.T.
29. There is no petition filed for custody of the minor child by any party other than the Department, which appears to be seeking "custody and protective supervision" of the child without any specific assertion of harm or danger to the minor child.
30. There are no present allegations of abuse, mistreatment, neglect or endangerment of A.T. presently being investigated by the Department of Human Resources.

31. There has been no assertion by the Department supporting any suppositions made in any petition about the conditions in the home for the minor child.
32. That on or about October 25, 2017, State Assistant Attorney General Sonya Crawford filed a "Petition for Custody And, in the Interim, Motion for Protective Supervision & A Temporary Protective Order" sworn to by Department of Human Resources Social Worker, Pamela Jones.
33. DHR would intentionally interfere with Patterson's right to parent her own child, when there has been no claim of abuse or neglect and no claim that Patterson is unable or unwilling to parent her child. DHR would have this Court determine that the child is need of the care and protection of the State based on nothing more than anxieties and speculation on the part of DHR.
34. That on or about October 30, 2017, without prior notice to or authorization from Valerie Patterson or her attorney, and in violation of the voluntary agreement, a social worker for the Department of Human Resources arrived at Causey Middle School to evaluate, interview or otherwise speak to the minor child, A.T. The child was removed from fourth period to be interviewed or evaluated by the worker.
35. That the Department of Human Resources breached the voluntary agreement put in place on or about October 25, 2017 and DHR and the employees in the official and individual capacity presently seeking judicial intervention to make changes to that voluntary agreement and improperly remove the minor child from her mother.
36. The visit on October 30, 2017 was at least the third time that a social worker, agent, officer, or affiliate from the Department of Human Resources has attempted to evaluate, interview, or otherwise speak with A.T. at her school without prior notice or authorization from Valerie Patterson's attorney in violation of the voluntary agreement between the Department and Petitioner.
37. Due to the terroristic, threatening, and harassing actions of the Department and its agents, the minor child is terrified that with the Department's sudden and frequent drop-ins at her school during the course of her educational day, that she will be removed and taken from the physical custody of her mother any day.
38. Further and accordingly, due to the actions of the Department in frequenting the child at school without cause and without an active allegation of abuse, neglect, or harm, the child is currently suffering from undue stress, a fear of separation, a lack of focus in class, a drastic drop in grades, and a constant fear of separation from her lawful parent without cause.

39. The child reports that on October 30, 2017, when alone with the worker, the worker requested that she sign a document, and when the child refused to sign the document, the worker threatened that if she did not sign it, then it would be her own fault if she is taken from her mother.
40. Likewise, the worker attempted to force the child to divulge information as to her relationship with her father, an inquiry that is even beyond the scope of the Department's own Petition for Custody where it states in part, "The Department has very minimal information regarding him presently."
41. To add insult to injury, the worker interrogated the child as to whether or not her mother has hurt her without so much as a single allegation of abuse having been made to the department. The individuals named in this petition are acting outside the scope of their duties and responsibilities of a state agent. Absolutely NO Allegation has been made as to abuse of A.T. by Valerie Patterson, and thus the mere question of such is wholly unsubstantiated and is part and parcel of the Department's attempt to create intentional harm to Ms. Patterson and is the basis for the fraudulent, and baseless petition asserting some quasi form of dependency where no such facts exist.
42. "The right to parent one's child is a fundamental right, and the termination of that right should occur " only in the most egregious of circumstances." *K.W. v. J.G.*, 856 So.2d 859, 874 (Ala.Civ.App. 2003) (quoting *L.M. v. D.D.F.*, 840 So.2d 171, 172 (Ala.Civ.App. 2002), quoting in turn *Ex parte Beasley*, 564 So.2d at 952)." *C.P.M. v. Shelby County Department of Human Resources*, 185 So.3d 461, (2015).
43. No egregious circumstances have been asserted by the Mobile County Department of Human Resources or the State of Alabama Department of Human Resources.
44. Traditionally, and still today, a fit parent cannot involuntarily lose custodial rights in favor of a nonparent based solely on the best interests of the child. *See T.S. v. J.P.*, 674 So.2d 535 (Ala.Civ.App.1995). In the absence of voluntary forfeiture of custody by the parent, before a court may award custody of a child to a nonparent, the law requires clear and convincing evidence of the unfitness of the parent, *Ex parte Terry*, 494 So.2d 628, 632 Ala. 1986), or the dependency of the child. *See Ala.Code 1975, § 12-15-301 et seq.*
45. *In Quilloin v. Walcott*, 434 U.S. 246, 255, 98 S.Ct. 549, 54 L.Ed.2d 511 (1978) the Court stated, "We have little doubt that the Due Process Clause would be

offended '[i]f a State were to attempt to force the breakup of a natural family, over the objections of the parents and their children, without some showing of unfitness and for the sole reason that to do so was thought to be in the children's best interest.' " (quoting *Smith v. Organization of Foster Families*, 431 U.S. 816, 862–63, 97 S.Ct. 2094, 53 L.Ed.2d 14 (1977) (Stewart, J., concurring in the judgment)). As Justice Parker and Justice Murdock thoroughly explained in their opinions concurring specially in *Ex parte E.R.G.*, it is only after a finding of parental unfitness that a court can determine that a nonparent should have custody to serve the best interests of the child. See 73 So.3d at 656–58 (Parker, J., concurring specially), and 73 So.3d at 670–71 (Murdock, J., concurring specially)." *Weldon v. Ballow*, No. 2140471, 2015 WL 6618983, at *10 (Ala. Civ. App. Oct. 30, 2015) cert. denied sub nom. *Ex parte Strange*, No. 1150152, 2016 WL 281069 (Ala. Jan. 22, 2016).

In following the above lined case law, there is no current allegations of dependency, or parental unfitness and the agreement was breached by the DHR social worker, therefore, one can only determine that the social workers, supervisor for the social workers at DHR, the attorney for DHR are acting outside the scope of their job with the intent to cause harm to the child and the parent in this case.

Sovereign immunity does not prevent actions for an injunction or damages brought against state officials in their representative capacity and individually when it is alleged that they acted fraudulently, in bad faith, beyond their authority, or in a mistaken interpretation of law. See *Drummond Co. v. Alabama Dep't of Transp.*, 937 So.2d 56, 58 (Ala. 2006). DHR and their respective employees, the assistant attorney generals that represent the department are an agent of the prosecution and it is unknown whether the prosecution against Ms. Patterson has taken an unfettered and unprecedented action to circumvent the constitutional protections afforded those charged with crimes. While "the plurality decision in *Troxel* did not explain the amount of weight a court should give to custodial parenting decisions, **it very clearly stated that the presumption could not be overcome "simply because a state judge believes a 'better' decision could be made,"** 530 U.S. at 73, 120 S.Ct. 2054, and that a court cannot constitutionally overrule a custodial parent's decision based on "nothing more than a simple disagreement between the [court] and [the custodial parent] concerning her children's best interests." 530 U.S. at 72, 120 S.Ct. 2054." *Weldon v. Ballow*, No. 2140471, 2015 WL 6618983, at *13-14 (Ala. Civ. App. Oct. 30, 2015) cert. denied sub nom. *Ex parte Strange*, No. 1150152, 2016 WL 281069 (Ala. Jan. 22, 2016)(Emphasis added).

Many state courts have concluded that a parent has a traditional fundamental right to parent and this right can be overcome only by the most urgent of reasons. See *Conlogue, supra*. Many states agree with that constitutional standard. See *Ross v. Bauman*, 353 P.3d 816 (Alaska 2015) (grandparent must show detriment to child); *Linder, supra*; *Roth v. Weston*, 259 Conn. 202, 789 A.2d 431 (2002); *Sullivan v.*

Sapp, 866 So.2d 28 (Fla.2004); *Clark v. Wade*, 273 Ga. 587, 544 S.E.2d 99 (2001); *Doe v. Doe*, 116 Hawai'i 323, 172 P.3d 1067 (2007); *Blixt v. Blixt*, 437 Mass. 649, 774 N.E.2d 1052 (2002); *DeRose v. DeRose*, 469 Mich. 320, 666 N.W.2d 636 (2003); *Moriarty v. Bradt*, 177 N.J. 84, 827 A.2d 203 (2003); *Neal v. Lee*, 14 P.3d 547 (Okla.2000); *Hawk v. Hawk*, 855 S.W.2d 573 (Tenn.1993); and *Jones v. Jones*, 307 P.3d 598 (Utah Ct.App.2013). Other states phrase that standard in a different way by requiring a threshold showing of parental unfitness. *See, e.g., In re Marriage of Howard*, 661 N.W.2d 183 (Iowa 2003); ***Koshko v. Haining*, 398 Md. 404, 921 A.2d 171 (2007) (requiring proof of "exceptional circumstances" such as unfitness of parent or deleterious effect on child)**; *Williamson v. Hunt*, 183 Or.App. 339, 51 P.3d 694 (2002), *abrogated on other grounds, In re Marriage of O'Donnell-Lamont*, 187 Or.App. 14, 67 P.3d 939 (2003); *Camburn v. Smith*, 355 S.C. 574, 586 S.E.2d 565 (2003); and *Glidden v. Conley*, 175 Vt. 111, 820 A.2d 197 (2003).

The presumption in favor of parental custody and the heavy burden placed on a third party seeking that custody, *see Massey v. Massey*, 410 So.2d 422 (Ala.Civ.App.1981), *cert. denied*, 410 So.2d 426 (Ala.1982), the removal of a child from a parent's custody with placement in a third party non-parent, is a matter of dependency and proper before a Juvenile Court of Competent Jurisdiction; where dependency is not fraudulently sought or sought in bad faith as in this case. In other words the Department must allege specifically the reason for dependency and has failed to make any such assertion.

46. It appears, based on information from a reliable source, that someone higher up in the organization is pursuing this case but the identity of that individual or individuals is unknown to the Petitioner at this time. In any event, Ms. Patterson and her child will be subjected to irreparable harm absent a court order enjoining the social workers, their supervisors, the agency attorneys, of the office of the attorney general and any other individual working for the state attempting to circumvent the Constitution and have access to Ms. Patterson without her attorney present has violated the Constitutional Guarantees of the Fifth and Sixth Amendment to the Constitution of the United States.
47. There is a high likelihood of success on the merits of this pleading as the evidence in the Respondents' Petition is insufficient to prove that A.T. is dependent.
48. Alabama Rules of Civil Procedure Rule 65(b) provides, in pertinent part, that the party moving for a preliminary injunction must show that immediate or irreparable injury, loss, or damage will result to the applicant before the adverse party or that party's attorney can be heard in opposition.
49. Immediate and irreparable injury, loss, and damage *has* in fact resulted to Valerie Patterson and her child and will continue if the temporary restraining order and preliminary injunction are not granted barring contact between the Alabama

Department of Human Resources, Mobile County Department of Human Resources, their agents, workers, attorneys, officers, and affiliates and Valerie Patterson and her minor child.

50. Valerie Patterson has a fundamental, constitutional, and sacred right to parent her child without interference, threats, terror, harassment, invasion, or threat from the Respondents. This fundamental right may not be severed by state-government interference without due process of the 14th Amendment.
51. Further, this fundamental right encompasses the right to direct the education, care and upbringing of the child, including the discretion to determine who, if anyone, is allowed to interview or evaluate said child.
52. The Department has violated this fundamental right of a parent and interjected themselves into the private lives of the parent and child in this case.
53. Valerie Patterson has never given any agency, school system, or entity permission to allow the Respondents' unfettered, unsupervised, unauthorized access to speak with her child and especially outside her presence and protection.
54. Without an immediate temporary restraining order or preliminary injunction, the Petitioner will be irreparably harmed and her fundamental right to parent trampled.
55. Without an immediate temporary restraining order or preliminary injunction, a dangerous precedent will be set for which any and every person ever arrested and charged with any crime will be subjected to loss of constitutional privilege and fundamental rights without the requirements of Due process of law.
56. Without an immediate temporary restraining order or preliminary injunction, the state will be permitted to violate the attorney-client relationship of represented parties charged with crimes, thus having an agent at its disposal to circumvent the constitutional protections afforded individuals represented by counsel. As the social workers and their attorneys seek to have interaction with those charged with crimes, question them without their attorney's present, violate the Fifth Amendment privilege guaranteed by the Constitution, and then disseminate the information obtained to other state agencies or seek unfettered access to represented parties and their families without cause and justification.
57. This action seeks and Petitioner requests an **IMMEDIATE TEMPORARY RESTRAINING ORDER**, pursuant to Rule 65, A.R.C.P., that orders the Department, their social workers, attorneys, investigators and other personnel, to cease any and all contact with Valerie Patterson and her minor child, A.T., and that enjoins the Respondents from any future or planned contact, evaluations, interviews, meetings, discussions, or any other interactions or engagements with

Valerie Patterson and her minor child, A.T. without their respective attorneys present.

WHEREFORE, based upon the foregoing, Petitioner prays that this Honorable Court will:

- a. Issue an Immediate Ex Parte Temporary Restraining Order against Pamela Jones, Ferren Pryor, and the Mobile County Department of Human Resources, as agent for the Alabama Department of Human Resources, and Sonya Crawford and other assistant Attorney Generals working for the Alabama Department of Human Resources, the Respondents in the above styled case, and Order that Respondents cease any current, future, or planned contact, evaluations, interviews, meetings, discussions, or any other interactions or engagements with Valerie Patterson and her minor child, A.T.
- b. Order that Respondents stay away from the minor child's school- Causey Middle School, home, places of temporary residence or visits, residences of her family members, venues where the child may participate in or enjoy extra-curricular activities, and any other place where the child and Valerie Patterson may be present;
- c. Order that the Respondents cease any and all communication with Valerie Patterson and her minor child, whether in person, by phone, physical correspondence, email, fax, through third parties, or by other means;
- d. Set an evidentiary hearing date for Petitioner's application for temporary restraining order and preliminary injunction;
- e. Order that the Respondents refrain from any contact with the Petitioner;
- f. Issue a permanent injunction upon final hearing;
- g. Award Petitioner court costs, expenses and reasonable attorney fees against the individuals in their individual capacity acting under a guise of protection by the Department of Human Resources, especially in light of the Respondent's actions in fraud, bad faith, and beyond their authority, under willful, intentional, and injurious intent, these actions and conduct of the DHR attorney, social worker, and supervisor of the social worker were conducted with the intent to harm, harass and interfere with the parent child relationship;
- h. Award any other such further and different relief to which Petitioner may be entitled, the premises considered.

Valerie B. Patterson
VALERIE PATTERSON, Petitioner

STATE OF ALABAMA)
MOBILE COUNTY)

Before me, the undersigned authority, a Notary Public in and for said State and County, personally appeared **VALERIE PATTERSON**, who being first duly sworn by me, deposes on oath and says that she has read this instrument, has been advised of and understands its nature and effect, and voluntarily executed the same.

SWORN TO and subscribed before me on this the 13th day of November, 2017.

Haley A. Newman
 Notary Public
 My commission expires: 04-02-2022

Christine C. Hernandez
 Christine C. Hernandez (HER051)
 Moshae Elise Donald (DON044)
 Jennifer Byrd (SPRO26)

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Please serve Respondents Via Process Server as Follows:

ALABAMA DEPARTMENT OF HUMAN RESOURCES
MOBILE COUNTY DEPARTMENT OF HUMAN RESOURCES
ASSISTANT ATTORNEY GENERAL SONYA CRAWFORD, individually
FERREN PRYOR, individually
PAMELA JONES, individually
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Mobile, AL 36606

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VALERIE PATTERSON

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**ALABAMA DEPARTMENT OF HUMAN
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ASSISTANT ATTORNEY GENERAL

SONYA CRAWFORD, individually,

FERREN PRYOR, individually and

PAMELA JONES, individually ET. AL

Respondents.

**ATTORNEY'S CERTIFICATION REGARDING SERVICE
PURSUANT TO A.R.Civ.P. 65(a)(2)(b)(2)**

Comes now, Christine C. Hernandez, Attorney for Petitioner ("Attorney"), and hereby certifies the following to this Honorable Court regarding service upon Respondents:

1. The Petition for Ex Parte Temporary Restraining Order and Motion for Preliminary Injunction were filed on November 13, 2017.

2. Attorney will put forth her best efforts to have Respondents served in a timely manner.

3. Despite the notice requirement of Rule 65, Attorney states that notice of the Temporary Restraining Order should not be required on the following grounds:

(a) Respondents, upon information and belief, have gone to the school of the Petitioner's minor child on more than one occasion;

(b) Respondents, upon information and belief, have met with the minor child and have threatened the minor child;

(c) Due to the terroristic, threatening, and harassing actions of the Department and its agents, the minor child is terrified that with the Department's sudden and frequent drop-ins at her school during the course of her educational day, that she will be removed and taken from the physical custody of her mother any day;

(d) Due to the actions of the Department in frequenting the child at school without cause and without an active allegation of abuse, neglect, or harm, the child is currently suffering from undue stress, a fear of separation, a lack of focus in class, a drastic drop in grades, and a constant fear of separation from her lawful parent without cause;

(e) Upon information and belief, on October 30, 2017, when the child was alone with the worker, the worker requested that the child sign a document, and when the child refused to sign the document, the worker threatened that if she did not sign it, then it would be her own fault if she is taken from her mother.

(f) Respondents continued harassment of the Petitioner and Minor child creates a substantial risk that Petitioner will suffer immediate and irreparable injury.

(g) Petitioner has a substantial likelihood of success on the merits.

Respectfully submitted,

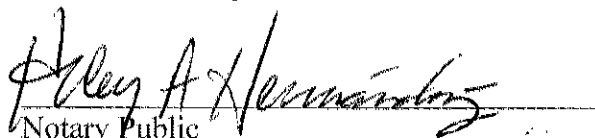

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STATE OF ALABAMA)
MOBILE COUNTY)

Before me, the undersigned authority, a Notary Public in and for said State and County, personally appeared **CHRISTINE C. HERNANDEZ**, who being first duly sworn by me, deposes on oath and says that she has read this instrument, has been advised of and understands its nature and effect, and voluntarily executed the same.

SWORN TO and subscribed before me on this the 13th day of Nov., 2017.


Notary Public
My commission expires: