

IN THE CHANCERY COURT OF LAFAYETTE COUNTY, MISSISSIPPI

XXXXXXXXXXXXXXXXXXXX

PLAINTIFF

VERSUS

CAUSE NO: 2008-261R

XXXXXXXXXXXXXXXXXXXX

DEFENDANT

MOTION FOR WRIT OF ASSISTANCE
FOR ISSUANCE OF SUBPOENA DUCES TECUM
CONCERNING YOUTH COURT RECORDS

Comes now, the duly appointed Guardian ad Litem in the above-styled case, on behalf of the minor children, _____, stating as follows:

1. The undersigned has been appointed as Guardian ad Litem on behalf of the minor children, _____.
2. The Guardian ad Litem has learned that there may have been certain investigations initiated by the Lafayette County Division of Family and Children's Services of the Mississippi Department of Human Services [hereinafter: DHS] concerning some or all of these minor children.
3. The minor children are now at the center of a contentious custody dispute in this Court.
4. The procedure for obtaining documents related to Department of Human Services records concerning minor children is governed by Rule 6 of the new Mississippi Uniform Rules of Youth Court Practice which provides the following procedures for the release of Youth Court and DHS records concerning minor children:

- (1) the party shall make an application to the court specifying which records are sought;
- (2) **the court shall issue a subpoena duces tecum to the youth court for these records;**
- (3) the youth court, unless a hearing is conducted pursuant to Rule 6(b) of these rules, shall transfer copies of the records to the court;
- (4) **the court shall conduct an in camera inspection of the records,** in accordance with the procedures set forth in *Pennsylvania v. Ritchie*, 480 U.S. 39 (1987), to determine which records should be disclosed to the party;
- (5) the court shall, at all times, protect the confidentiality of the records to the extent required of the youth court under Mississippi's Youth Court Law.

Miss. Youth Court Rule 6.

5. Under these circumstances, the undersigned respectfully requests that this Court cause to be issued a subpoena duces tecum directing the Youth Court of Lafayette County and the Department of Human Services to produce the records concerning these minor children, _____, to this Court for *in camera* review, so that this Court may determine whether this information should be released to the Guardian ad Litem and the parties in this case.

6. In addition, the undersigned respectfully requests such other general relief as may be warranted in the premises.

7. The proposed subpoena duces tecum is attached to this motion as Exhibit "A."

Respectfully submitted, this the _____ day of March, 2009.

David L. Calder, as Guardian ad Litem for the
Minor Children

By:

David L. Calder, MSB #7686
Guardian ad Litem
P.O. Box 4808
University, MS 38677
Phone: (662) 915-7429
Fax: (662) 915-7440

CERTIFICATE OF SERVICE

I hereby certify that I have this day served via United States Mail, first class postage prepaid, a true and correct copy of the foregoing to:

Attorney for Plaintiff
XXXXXXXXXX

Attorney for Defendant
XXXXXXXXXX

This the ____ day of _____, 2009

David L. Calder, MSB #7686

IN THE CHANCERY COURT OF LAFAYETTE COUNTY, MISSISSIPPI

XXXXXXXXXXXXXXXXXX

PLAINTIFF

VERSUS

CAUSE NO: XXXX

XXXXXXXXXXXXXXXXXX

DEFENDANT

ORDER GRANTING WRIT OF ASSISTANCE
FOR SUBPOENA DUCES TECUM
CONCERNING YOUTH COURT RECORDS

This cause comes before the Court on the Petition for Writ of Assistance which has been filed by the Guardian ad Litem for the minor children _____.

This request involves an investigation by the Department of Human Services concerning the minor children. By way of the Motion for Writ of Assistance, the Guardian ad Litem has requested permission to access the Department of Human Services records concerning the minor children.

Under these circumstances, the Court is of the opinion that the request for Writ of Assistance is well-taken and should be sustained. This matter is governed by Rule 6 of the new Mississippi Uniform Rules of Youth Court Practice, which provides that the Youth Court shall provide the requested documents to this Court for in camera review.

Accordingly, it is hereby ORDERED, ADJUDGED and DECREED as follows:

The Youth Court of Lafayette County and the Lafayette County Division of Family and Children's Services shall provide to this Court all records pertaining to the minor children, Destiny Gipson, Gerrica Gipson, Asia Daniels, and Allyia Daniels. This Court will

then conduct an in camera review and decide whether these records will be disclosed.

SO ORDERED, ADJUDGED, AND DECREED this the _____ day of _____,
2009.

Chancellor

Order Prepared By:
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