

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

ADAM HUFF and LAURA HOPE HUFF,)
Individually and on behalf of their)
Minor children, H.H. and E.H.,)

Plaintiffs,)

v.)

INDIANA DEPARTMENT OF CHILD)
SERVICES, TERRY STIGDON, in her)
official capacity as Director of the Indiana)
Department of Child Services and PEGGY)
SURBEY, in her official capacity as Director)
of the Marion County Division of the)
Department of Child Services, AMBER)
JOHNSON, in her official capacity as)
Supervisor for the Marion County Division)
of the Department of Child Services,)
MAEQUANDA DONALDSON, in her)
individual capacity as Family Case Manager)
For the Marion County Division of the)
Department of Child Services,)
JAYIA ALEXANDER, in her individual)
capacity as Family Case Manager for the)
Marion County Division of the Department)
of Child Services,)

Civil Action No.: 1:20-cv-2435

COMPLAINT AND JURY DEMAND

Plaintiffs Adam Huff (“Adam”) and Laura Hope Huff (“Laura”) (collectively the “Huffs” or “Plaintiffs”), individually and on behalf of their minor children, H.H. and E.H., by counsel, and for their *Complaint and Jury Demand* against Defendants Indiana Department of Child Services (“DCS”), Terry Stigdon in her official capacity as Director of the Indiana DCS (“Stigdon”), Peggy Surbey in her official capacity as Director of the Marion County Division of DCS (“Surbey”), Amber Johnson in her official capacity as Supervisor for the Marion County Division of DCS (“Supervisor”), MaeQuanda Donaldson, in her individual capacity as Family Case Manager for

the Marion County Division of DCS (“FCM 1”), and Jayia Alexander, in her individual capacity as Family Case Manager for the Marion County Division of DCS (“FCM 2”) (“FCM 1” and “FCM 2”, collectively as the “FCM’s”) allege as follows:

I. INTRODUCTION

This case arises under the Fourth and Fourteenth Amendments to the United States Constitution, 42 USC § 1983, Article I of the Indiana Constitution, and Indiana common law causes of action for trespass, negligent and/or intentional infliction of emotional distress, malicious prosecution, abuse of process, and violations of Ind. Code § 34-52-1-1.

1. Defendants, while acting under the color of state law and in the scope of their employment, intentionally:

- A. Conducted an unreasonable search and seizure of H.H. by conducting a custodial interrogation of her without a warrant, parental consent, probable cause, or exigent circumstances, which was also a violation of DCS Child Welfare Policy 4.9;
- B. Deprived H.H. and E.H. from having their personal possessions (such as a hair brush and Chap Stick) which are necessary for proper hygiene while in Defendants’ custody;
- C. Deprived H.H. and E.H. from exercising their religious beliefs by prohibiting them from bringing their bibles into the DCS Children’s Bureau;
- D. Falsely informed the Huffs that a legal proceeding had been initiated against them in an effort to induce the Huffs to voluntarily surrender H.H. and E.H. to the custody of Defendants;
- E. Filed false affidavits and pleadings in an effort to persuade a court to remove H.H. and E.H. from the Huffs’ care and place them in the custody of the state government;
- F. Placed Adam Huff on the Child Protection Index, an index of persons having been found to have committed acts of “substantiated” child abuse or neglect in the State of Indiana, based upon false affidavits and fabricated evidence, and when in fact there had been no substantiation of such allegations;

- G. Subjected H.H. and E.H. to intimidating and unlawful interrogations and interrogation techniques; and
- H. Attempted to subject Laura Huff to intrusive and unwarranted and unlawful mental health examinations.

II. JURISDICTION AND VENUE

2. Jurisdiction is proper in this Court pursuant to 28 USC § 1343(a)(3) and 28 USC § 1331. This Court has supplemental jurisdiction over Plaintiffs' state law claims under 28 USC § 1367 because such claims are so related to and intertwined with Plaintiffs' federal claims that they form part of the same controversy.

- 3. Venue is proper in the Southern District of Indiana per 28 USC § 1391.
- 4. The individual Defendants reside in this district.
- 5. The events giving rise to this action occurred in this district.
- 6. The government agency Defendants maintain their principal offices in this district.

III. THE PARTIES

7. Plaintiff Adam Huff is an individual who resides and has his domicile at 10443 Bellchime Court, Marion County, Indianapolis, Indiana 46235 (the "Home").

8. Plaintiff Laura Huff is an individual who resides and has her domicile at 10443 Bellchime Court, Marion County, Indianapolis, Indiana 46235 (the "Home").

- 9. Plaintiff Laura Huff is married to Plaintiff Adam Huff.
- 10. The Huffs have two minor biological children, H.H. and E.H.
- 11. At all relevant times, Plaintiffs were and are residents of the State of Indiana.
- 12. Defendant DCS is an agency or instrumentality of the State of Indiana.
- 13. Defendant Stigdon was, at all relevant times, employed as Director of DCS and a resident of the State of Indiana.

14. Defendant Surbey was, at all relevant times, employed as Director of the Marion County Division of DCS and a resident of the State of Indiana.

15. Defendant MaeQuanda Donaldson (hereinafter, generally the “FCM”) was, at all relevant times, employed as the Family Case Manager responsible for handling the investigation relevant to this litigation.

16. Defendant Jayia Alexander (hereinafter, generally the “FCM”) was, at all relevant times, employed as the Family Case Manager responsible for handling the investigation relevant to and giving rise to this litigation.

17. Defendant Amber Johnson (hereinafter, the “Supervisor”) was, at all relevant times, employed as the Supervisor of the FCM’s.

IV. ALLEGATIONS APPLICABLE TO ALL COUNTS

18. On the evening of Saturday, October 27, 2018, the FCM appeared at the Home along with three (3) uniformed and armed law enforcement officers employed by the Indianapolis Metropolitan Police Department (“IMPD”).

19. The FCM informed the Huffs that someone had claimed to have witnessed H.H. being abused by Adam Huff, a year earlier in November 2017.

20. The FCM questioned the Huff children and then left the Home, apparently satisfied that nothing was amiss and that the report must have been false.

21. Specifically, the FCM told the Huffs that everything would be wrapped up and closed out on Monday, when DCS offices were scheduled to open again.

22. On Monday, the FCM returned to the Home and informed the Huffs that, instead of the case being closed, H.H. would need to be interviewed by a forensic investigator at the DCS office without either parent present.

23. The FCM removed both H.H. and E.H. from the Home for questioning.

24. The FCM originally stated that Laura could ride in the car with H.H. and E.H. on the way to the interview. However, Laura could not get into the car that the FCM was driving due to her disability.

25. Instead of Laura being able to ride in the car with H.H. and E.H. on the way to the interview, Adam had to drive Laura separately from H.H. and E.H.

26. Adam and Laura followed, but when they arrived at the DCS office, they were notified that H.H. had already been interviewed, but not by a DCS forensic specialist.

27. Instead, H.H. had been interviewed by a male IMPD detective, without either parent – or even another female – being present.

28. No FCM was present during the H.H. interview.

29. The interview made H.H. feel very uncomfortable.

30. The manner in which the interview was conducted also violated DCS policy and protocol.

31. When Adam and Laura arrived at the DCS office, the IMPD detective questioned them.

32. DCS originally planned to place H.H. in a shelter immediately following the interview. However, Adam offered to leave the Home so that H.H. could go home with Laura.

33. The FCM then advised Adam and Laura that Adam was no longer allowed to be around H.H., so a DCS employee offered to drive H.H. to the Home, but told the Huffs that Adam would have to stay elsewhere.

34. DCS refused to drive E.H. to the Home, citing that it only had instructions to transport H.H., even though DCS later claimed that both children were in immediate danger.

35. DCS' action in not transporting E.H. back to the Home violated Ind. Code § 31-34-1-3(c) and contradicted the DCS claim that E.H. was in danger.

36. That night both H.H. and E.H. stayed with their mother, Laura.

37. A few days later, DCS filed a Child in Need of Services ("CHINS") petition in which DCS claimed to have removed H.H. and E.H. from the Home without a court order due to the alleged presence of an emergency situation.

38. DCS also claimed to have removed the children with the aid of law enforcement, which was untrue; DCS had not removed both children from the Home.

39. DCS picked up both children from the Home on the morning of the first CHINS hearing, specifically stating that they were taking E.H. along with H.H. so that DCS "would not look bad in front of the judge."

40. In its evidence presented to the state court in support of its CHINS petition ("DCS Evidence"), DCS claimed that both children should be removed from Adam's care because of pending criminal charges against him.

41. In fact, there were never any pending criminal charges against Adam relating to the allegations which gave rise to the DCS action or CHINS petition.

42. The DCS Evidence further claimed that both children had been removed from Laura's care because she is disabled and has "mobility issues."

43. There had never been an allegation of misconduct, neglect, or abuse against Laura, nor any DCS finding that she was an unfit parent. In fact, Laura had been caring for both children in the days leading up to the CHINS hearing.

44. Although there were no accusations of misconduct against Laura, DCS still required Laura's visits with E.H. and H.H. to be supervised due to Laura's disability. It is

unknown why her disability necessitated supervised visitation with her own children, or under what legal authority DCS mandated the same.

45. Throughout the course of their actions, DCS knowingly made numerous false, misleading, unconfirmed and/or uncorroborated statements in order to justify removing both children from the care of the Huffs.

46. Based upon the misrepresentations made by DCS, the state court ordered that both children be removed from the care of the Huffs.

47. H.H. and E.H. were placed into the DCS Children's Bureau.

48. While there, H.H. and E.H. had their bibles confiscated from them.

49. Neither child was permitted to have any personal items, even when transferring from DCS Children's Bureau to foster care, in violation of existing DCS policy.

50. It took a week just for H.H. to get a hairbrush.

51. The children were originally not permitted to share a bedroom while placed in foster care, despite DCS policy permitting the same for siblings.

52. H.H. and E.H. remained at the DCS Children's Bureau for approximately two (2) weeks due to DCS originally and wrongfully prohibiting the children from sharing a bedroom while in foster care.

53. Plaintiffs requested that their children continued to be homeschooled, as they had been prior to DCS intervention, but DCS refused. This action was also contrary to DCS policy, which provided that DCS was supposed to strive to keep children in their existing school environment. Additionally, DCS policy specifically allowed for homeschooling if a Regional Manager approved the request and submitted it to the court for approval.

54. For reasons which are unclear, the family was never given this option.

55. Due to DCS' removal of H.H. and E.H. from the Home, the family did not get to spend Thanksgiving together.

56. The family remained apart for New Year's Day and Valentine's Day.

57. Shortly before Christmas, the Huffs had their third or fourth state court appearance. In that hearing, the judge authorized unsupervised parenting time for both parents based on the recommendation of a therapist.

58. DCS refused to comply with the state court's directive.

59. As a result, the Huff family did not spend Christmas Day together, which is the most important holiday to the family and their religious beliefs.

60. E.H., who was eight (8) years old at that point, still believed in Santa Claus and the magical nature of Christmas, which was destroyed while the children were in DCS care.

61. DCS appointed a Sexually Abusive Youth Clinician ("CSAYC") to H.H. for trauma-focused therapy.

62. The CSAYC therapist said that she found no evidence of abuse.

63. When DCS received this report from the CSAYC, it coerced and stigmatized the CSAYC therapist so badly that she eventually told the Huff's counsel that DC would not allow her to say whether or not there was evidence of abuse.

64. Under Indiana guidelines, a CHINS fact-finding hearing was to be held within 120 days of its initial filing.

65. Just a couple of days before the fact-finding hearing, DCS dismissed all of the charges against the Huffs.

66. The dismissal came despite the fact that prior to the fact-finding hearing, DCS had "substantiated" the claims against Adam.

67. DCS's decision was based entirely on the allegations which had been made against him, and by refusing to consider any exculpatory evidence.

68. Even though DCS only looked at *allegations* against Adam, it concluded that there was a "preponderance of evidence" to support them. Adam even requested an Administrative Review of the DCS determination, but DCS refused.

69. This entire ordeal has traumatized the family.

70. Up until the time that DCS removed the Huff children from the Home, they had never been apart for more than twenty-four (24) hours. Their separation was an emotionally traumatic experience that caused the Huffs severe emotional distress.

71. During the time that DCS had the children in its custody, they frequently cried themselves to sleep.

72. The children are still showing signs of trauma from DCS's actions. Whenever a stranger comes to the door, they run to their room and start shaking in fear. Additionally, the children still have difficulty sleeping and have emotional outbursts.

73. Now the entire family is living in a constant state of fear, not knowing what DCS will do to them next and never truly feeling safe.

74. In all of its actions and findings, there was never a single piece of evidence which suggested that either of the Huff children were abused or in danger from Adam or Laura.

75. DCS based its findings and substantiations on speculation, guesswork, and a general disdain for the Huffs.

V. CAUSES OF ACTION

COUNT 1: Violation of the Fourteenth Amendment to the U.S. Constitution *Intrusion upon the autonomous family relationship*

76. The Huffs incorporate all of the paragraphs above as if fully set forth herein.

77. Defendants unlawfully infringed upon the rights of both H.H. and E.H. when DCS, without lawful authority and in violation of its own policy and protocol for the same, removed the children from the care of their parents.

78. Defendants caused undue interference in the family relationship of all Plaintiffs.

79. Defendants' conduct violated the substantive due process rights of the Huffs to direct the care and upbringing of E.H. and H.H. and to protect E.H. and H.H.

80. Defendants acted under color of state law.

81. Defendants' conduct deprived Adam of rights protected by federal and state law.

82. Defendants intentionally misrepresented that criminal charges against Adam were pending, which was untrue, and such knowingly false statement resulted in E.H. and H.H. being removed from Adam's care.

83. Defendants' conduct proximately caused Plaintiffs damages.

84. Defendants' actions occurred during the implementation of a custom, policy and practice of DCS.

COUNT 2: Violation of the Fourteenth Amendment to the U.S. Constitution
Infringement on the Right to Care, Custody and Control of Children

85. Plaintiffs incorporate all of the paragraphs above as if fully set forth herein.

86. Defendants unlawfully infringed and intruded upon the rights of Adam and Laura when DCS, without authority and in violation of their own policies and protocols for the same, removed H.H. and E.H. from the care of their parents.

87. Defendants unlawfully infringed and intruded upon the rights of Adam and Laura when they refused to allow H.H. and E.H. to continue homeschooling while in foster care, as they had done at Home.

COUNT 3: Violation of the Fourth Amendment to the U.S. Constitution
Unreasonable Search and Seizure

88. Plaintiffs incorporate all of the paragraphs above as if fully set forth herein.

89. In violation of its own procedures, Defendants conducted an unreasonable search and seizure of H.H. by conducting a custodial interrogation without a warrant, parental consent, probable cause, or exigent circumstances, all in violation of DCS Child Welfare Policy 4.9.

90. Defendants utilized IMPD in furtherance of their unlawful actions.

91. Defendants removed the children from Laura's care and custody, even though she complied with DCS's requirement that Adam not remain in the home while E.H. and H.H are in the home, without any legal authority or justification to do so.

92. Defendants engaged in the foregoing conduct with actual knowledge they were not in possession of facts to support a CHINS petition pursuant to Ind. Code § 31-34-1, *et seq.*

93. Defendants acted under color of state law.

94. Defendants' actions were reckless, willful and malicious.

95. Defendants' actions were deliberate and purposeful, with the intent to deprive Plaintiffs of their liberty, property and parental rights.

96. Plaintiffs sustained damages as a result of Defendants' wrongful conduct.

COUNT 4: Violation of the First Amendment of the U.S. Constitution
Failure to Accommodate Religious Practice

97. The Huffs incorporate all paragraphs above as if fully set forth herein.

98. Defendants violated the rights of E.H. and H.H. by prohibiting them from having their Bibles while at the DCS Children's Bureau, or to be home schooled, thereby infringing upon their right to free exercise of religion.

99. Defendants' actions were deliberate and purposeful, with the intent to deprive E.H. and H.H. of their right to freedom of religion.

COUNT 5: Violation of Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act (on behalf of Laura)
Discrimination Against Parents with Disabilities

100. Plaintiffs incorporate all paragraphs above as if fully set forth herein.

101. Defendants denied Laura the ability to drive with H.H. and E.H. to the interview at the DCS office because of Laura's disability.

102. Defendants removed H.H. and E.H. from the care and custody of Laura solely due to Laura's disability.

103. None of the allegations made by DCS claimed that Laura was unable or unfit to care for E.H. and H.H.

104. None of the allegations made by DCS claimed that E.H. and H.H. were not safe while in the care of Laura.

105. None of the allegations made by DCS claimed that Laura allowed Adam to be in the home or around E.H. and H.H. after DCS required that Adam was not to be around them.

106. Defendants refused to allow Laura to have visits with E.H. and H.H. unless they were supervised, despite there having been no finding of unfitness or danger.

107. Defendants intentionally discriminated against Laura on the basis of her disability in violation of federal law.

108. Laura sustained damages as a result of Defendants' unlawful actions.

109. COUNT 6: Violation of Substantive Due Process Rights

110. Plaintiffs incorporate all of the paragraphs above as if fully set forth herein.

111. Plaintiffs have a fundamental right to privacy which is protected by the Fourteenth Amendment. Included in their Fourteenth Amendment right to privacy is the right to raise their children as they see fit.

112. Defendants' conduct violated the substantive due process rights of the Huffs to direct the care and upbringing of E.H. and H.H. and to protect E.H. and H.H.

113. Defendants acted under the color of state law.

114. Defendants' conduct deprived Adam of rights protected by federal and state law without any finding or legal authority to do so.

115. Defendants either participated directly in the alleged constitutional violation, had actual knowledge thereof and failed to intervene, created a policy or custom under which the unconstitutional practices occurred or allowed them to continue, were grossly negligent in their actions, or exhibited deliberate indifference to the Huff's rights by failing to act in the face of knowledge that unconstitutional acts were occurring.

COUNT 7: Malicious Prosecution

116. Plaintiffs incorporate all of the paragraphs above as if fully set forth herein.

117. Defendants had no good faith factual or legal basis for the Action.

118. The Action was malicious.

119. Defendants had no probable cause to file or prosecute the Action.

120. Defendants continued to prosecute the Action even with actual knowledge that there was no evidence to support the Action.

121. The Action was terminated in favor of Plaintiffs, without a fact-finding hearing.

122. Plaintiffs sustained damages as a result of the Action.

COUNT 8: Abuse of Process

123. Plaintiffs incorporate all of the paragraphs above as if fully set forth herein.

124. Defendants initiated the Action maliciously and without probable cause.

125. Defendants, with knowledge that the allegations were unsubstantiated, utilized legal process to force Plaintiffs to surrender custody of H.H. and E.H. to the State of Indiana.

126. Defendants, with knowledge that the allegations were unsubstantiated, utilized legal process to coerce Plaintiffs into allowing Defendants to interfere with their parental rights.

127. Defendants forced Plaintiffs to forfeit their parental rights by intimidation and threats of the removal of H.H. and E.H., and by their continued efforts to interfere with the Huffs' parental rights.

128. Defendants lacked a good faith factual basis to pursue their claims, but nonetheless refused to dismiss the Action until a few days prior to the fact-finding hearing, with the terms that H.H. would receive therapy in order to cope with the trauma DCS caused her.

129. Defendants willfully ignored evidence demonstrating that there was no factual basis to pursue the claims against Plaintiffs.

130. The allegations made by DCS against Plaintiffs were ultimately found to be unsubstantiated after almost four (4) months of litigation.

131. Defendants' conduct was abusive, willful, malicious and designed to conceal Defendants' wrongful conduct and avoid public embarrassment.

132. Plaintiffs sustained damages as a result of Defendants' unlawful actions.

WHEREFORE, Plaintiffs, Adam Huff and Laura Hope Huff, individually and on behalf of H.H. and E.H., by counsel, respectfully pray that the Court enter judgment in their favor and against Defendants, jointly and severally, for damages sufficient to compensate them for their

losses, reasonable attorney fees and litigation expenses together with interest, costs and all other relief that is just and proper in the premises.

COUNT 9: Frivolous Litigation

133. Plaintiffs incorporate all of the paragraphs above as if fully set forth herein.

134. Defendants filed the Action without any factual or legal basis. The action was frivolous, unreasonable, or groundless as those terms are defined under Indiana law.

135. Defendants continued to maintain the Action even after gaining actual knowledge there were no facts to support it.

136. Defendants litigated the Action in bad faith.

137. Defendants failed to dismiss the Action despite repeated demands that they do so.

138. Defendants' actions were willful and intentional.

139. Plaintiffs sustained damages as a result of Defendants' wrongful actions.

WHEREFORE, Plaintiffs, Adam Huff and Laura Hope Huff, individually and on behalf of H.H. and E.H., by counsel, respectfully pray that the Court enter judgment in their favor and against Defendants, jointly and severally, for damages sufficient to compensate them for their losses, reasonable attorney fees and litigation expenses together with interest, costs and all other relief that is just and proper in the premises.

COUNT 10: Intentional Infliction of Emotional Distress

140. Plaintiffs hereby incorporate the preceding rhetorical paragraphs as if fully set forth herein.

141. Defendants' intentionally and/or recklessly engaged in extreme and outrageous conduct which caused the Huff's severe emotional distress.

142. Defendants unlawfully interfered with Plaintiffs' constitutionally protected rights.

143. Defendants' conduct was beyond any conduct acceptable for the behavior of government officials so as to be regarded as atrocious.

WHEREFORE, Plaintiffs Adam Huff and Laura Hope Huff, individually and on behalf of H.H. and E.H., by counsel, respectfully pray that the Court enter judgment in their favor and against Defendants, jointly and severally, for damages sufficient to compensate them for their losses, reasonable attorney fees and litigation expenses together with interest as permitted by law, costs and all other relief proper in the premises.

REQUEST FOR JURY TRIAL

COMES NOW the Plaintiffs, Adam Huff and Laura Hope Huff, individually and on behalf of their minor children, H.H. and E.H., by counsel, and request this matter be tried by jury on all issues so triable as a matter of right.

Respectfully submitted,



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