

## **Legal Assistance Foundation of Metropolitan Chicago Helps Grandmother Fight for Grandchildren**

For most of their lives, Kwaneese, 6, and Namond, 5, had lived with their grandmother, Wendy. (The names of all the members of the family have been changed.) Kwaneese and Namond's father was shot and killed in 2003. The children's mother, Sandy, lived with the family on and off, drug addicted and absent for months at a time. In October 2004, Sandy was incarcerated, and consented to have Wendy take legal guardianship of Kwaneese and Namond.

Wendy turned to LAF when Sandy, released from prison but still using drugs, filed a petition to discharge the guardianship. LAF appeared on behalf of Wendy to help ensure that the court did not return the children to Sandy without a thorough investigation into Sandy's current drug use and ability to care for the children. However, the guardian appointed by the court for the children pushed for the children to have unsupervised visits with Sandy in her home. After these visits began, Wendy became alarmed at some serious changes in Kwaneese's behavior. She immediately took Kwaneese to the doctor, where she learned Kwaneese had contracted a sexually-transmitted disease. Together, Wendy and the doctor called the Department of Children and Family Services.

An investigation and outcry from Kwaneese eventually revealed that the perpetrator was Kwaneese's 14-year-old, emotionally-disturbed cousin, who lived with Sandy and had been permitted to be alone with Kwaneese. However, when Kwaneese's Guardian ad Litem learned of the diagnosis, she prepared an emergency motion demanding immediate termination of Wendy's guardianship. She based her motion on Kwaneese's diagnosis and on an investigative report from the Department of Supportive Services, released around the same time. The report, while describing Sandy's home as squalid and overcrowded, faulted Wendy for, among other things, refusing to leave Kwaneese alone with the male investigator, and sharpening a pencil in what the investigator interpreted as a "threatening" manner.

When the GAL presented her motion to the court without prior notice to Wendy's attorneys, they requested a hearing to give Wendy the opportunity to explain her interaction with the investigator (including that, in the South where she is from, everyone sharpens pencils with a knife, and Kwaneese had needed a pencil for her homework). Wendy's attorneys pointed out that immediately terminating the guardianship would only result in return of the children to their mother's home – a home even the GAL agreed was dangerous. They also argued that it was not in the children's best interests to take them away from the only home they had ever known and put them in foster care, when there was no evidence that Kwaneese or Namond had been abused while in Wendy's care.

The court granted the GAL's emergency motion without hearing, but agreed to stay the order pending appeal. Wendy's attorneys filed an expedited appeal. By the time the appellate court issued its decision five months later, reversing the termination of guardianship and ordering that a hearing on whether termination would be in the children's best interests, DCFS had identified the perpetrator in Sandy's home and exonerated Wendy, lifting any suspicion that she was not an appropriate caretaker for her grandchildren. After meeting with everyone concerned, the GAL agreed to support Wendy's continued guardianship of the children, so that no hearing was necessary.

A year later, Wendy turned to LAF again. Kwaneese was well and thriving, but Namond,

who suffers from a learning disability, was having trouble. Together with teachers and others at Namond's school, Wendy had obtained an Individualized Education Plan, or IEP, to ensure that Namond obtained all the educational benefits to which he is entitled under the law. For the 2008-09 school year, Namond transferred to a school about a mile from his home, which was better qualified than his original school to meet his special needs. However, Wendy had endured several hospitalizations for congestive heart failure, and could not walk with Namond the mile between his home and the new school. Namond's disabilities made him unable to walk there safely by himself. With the help of her LAF attorneys, Wendy got Namond's IEP revised to require the school district to provide him with transportation to school. The next day, Wendy waited with Namond for the bus to pick him up, but no bus came. Over the course of the next few weeks, Wendy and her attorneys made numerous calls to the school and district, only to be given excuses and eventually to be ignored. Throughout December and the first weeks of January, often in record cold temperatures, Wendy and Namond would begin waiting at about 7:45 a.m. for a bus to arrive. Because school starts at 9:00, Wendy would give up around 8:30, and call a private transportation service to get Namond to school. Private transportation was costing her about \$25 per day, which she simply could not afford on her Social Security income.

Increasingly frustrated, Wendy's attorneys requested an administrative hearing in early January 2009, hoping it would bring about compliance. When nothing changed, they filed a federal court complaint and motion for temporary restraining order. Two months after the school district had agreed to provide Namond with bus service, and the day before the motion for TRO was set for hearing, a school bus finally rolled up to Namond's apartment complex and brought him to school. The next day, in court, the school district formally agreed to continue Namond's bus service for the rest of the school year. To date, the district has complied with its agreement. The school district and Wendy's LAF attorneys are now negotiating a holistic settlement of the complaint.