



## Jessica R. v. DCFS

This case was filed by Etonia C., but Jessica R. later substituted as the lead plaintiff. It is the third of three cases that challenge the rule known as Allegation 60 (“environment Injurious”). The first of the three cases was *Julie Q.*; in that case, the Illinois Supreme Court held in March 2013 that Allegation 60, in the version that existed since 2001, was legally void because the Illinois General Assembly had not authorized the Illinois Department of Children and Family Services (“DCFS”) to enact this definition of neglect. Despite this ruling, DCFS failed to amend Allegation 60 properly until June 11, 2014. In the case of *Ashley M. v. DCFS*, the Family Defense Center sued to require DCFS to adopt a new Allegation 60 rule, which it started to do on January 1, 2014 but did not complete until June 11, 2014. The *Ashley M.* court addressed the legal rights of all the people investigated and indicated under Allegation 60 between July 13, 2012 and December 31, 2013 but did not address the legality of investigations and findings against individuals investigated and indicated between January 1, 2014 and June 11, 2014 when the new lawful Allegation 60 went into effect.

Etonia C. won her individual case after she filed the class action. In order to maintain a class action, Jessica R. became the lead named plaintiff in the suit.

Under a settlement of the *Etonia C./Jessica R.* case, DCFS agreed to expunge all the indicated findings for Allegation 60 registered between January 1, 2014 and May 31, 2014. Indicated findings between May 31, 2014 and June 11, 2014 were already expunged under *Ashley M.* (under what was called the gap period when DCFS admitted it did not have a proper rule).

The legal issue in *Etonia C./Jessica R.* was whether the use of emergency rulemaking to authorize investigations under Allegation 60 was proper. Counsel argued that there was no emergency under the circumstances given that the Illinois Supreme Court had held Allegation 60 void over 8 months before DCFS proposed a new rule. Rather than litigate that question fully, DCFS agreed to the remedy the plaintiffs sought, which was the removal of all the names of people who had been indicated for Allegation 60 during the period the emergency rule was in effect