

JULY - AUGUST 2020

SETTLEMENT - KING COUNTY

CODY RUSHING v. STATE OF WASHINGTON, DEPARTMENT OF SOCIAL AND
HEALTH SERVICES AND DEPARTMENT OF CHILDREN, YOUTH AND FAMILIES

Number: 19-2-25178-6SEA

Settlement Date: 2/12/20

Plff Atty: David Moody, Ian Bauer & Gordon Verhovek of Hagens
Berman Sobol Shapiro (Seattle)

Def. Atty: Gregory Silvey, Allison Croft & Gauri Locker, Office of
the Attorney General (Seattle)

STATE, DSHS & DCYF NEGLIGENCE

EMOTIONAL DISTRESS

Plff Cody Rushing, male, currently age 14. Plff is the biological son of Sean Tandberg and Angela Perry. On July 27, 2006, staff at Seattle Children's Hospital called Child Protective Services (CPS) to report that Plff (age 10 months) was brought into the hospital with an infection following brain surgery, which required him to "have his head drained and a PIC line inserted." Medical staff expressed great concern about Plff and his siblings, noting that Plff was medically fragile and the family home environment did not appear to be safe for small children or conducive to an infant healing from a major surgery. This was not the first warning received by CPS in Plff's young life. CPS had received eight formal referrals over the ten months since his birth in September 2005. These referrals included graphic warnings of physical abuse of young children, chronic methamphetamine abuse by the parents, severe domestic abuse between the parents in the presence of children, and an incident in May 2006 where the father threw a wrench through the window of the family minivan, shattering glass over 8-month old Plff and cutting his face. In total, Defs. DSHS/DCYF received more than 45 formal CPS referrals (and dozens of additional, informal warnings) between July 1997 and August 2006 regarding physical abuse, sexual abuse, and severe neglect of Plff and his siblings by their biological parents. As the agency entrusted with the State's protective services function, DSHS/DCYF had a duty to protect Plff and his siblings. Over the course of more than nine years, DSHS and DCYF were repeatedly warned - in graphic detail - of the horrifying situation facing children in the home of Plff's parents. Yet DSHS/DCYF social workers and

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Facts Cont'd: supervisors routinely accepted preposterous and conflicting explanations from the abusive parents at face value, and dismissed pleas from relatives, teachers, counselors and the children themselves. When DSHS/DCYF did screen CPS referrals in for investigation, social workers took the parents' explanations of their children's injuries at face value, failed to interview obvious collateral contacts, ignored repeated disclosures of abuse from the children themselves, and continued to offer the parents "chances" despite clear and obvious evidence of abuse. One of DSHS/DCYF's investigations lasted only eight days. In another, the investigator failed to observe the injuries to Plff's then four-year-old brother, relying solely on the accounts of others instead. In several early investigations involving Plff's siblings, DSHS/DCYF's "investigation" consisted solely of a letter informing the parents of the allegations. DSHS/DCYF failed to take protective action even though extended family and Plff's siblings reported that disclosure of the abuse often increased its frequency and severity. Investigations were closed while noting that the risk to the children "still remains." Other referrals were "screened out," resulting in no investigation at all. The CPS referrals received by DSHS/DCYF painted a disturbing picture. The referrals documented: (1) physical abuse of the children that caused "red marks all over," "a broken arm," "a burn," severe bruising, a "deep gouge/scratch," "grab marks," a "huge open wound," a "cut lip," "two to three bumps on the head," "red rub marks around the neck," "a contusion and abrasion," a "laceration," "bite marks," and various "mysterious cuts and injuries;" (2) "domestic violence in the home," including Tandberg beating Perry "severely, in front of the children" and Tandberg beating Perry on multiple occasions while she was holding the children, including Plff; (3) sexual abuse of a preschooler and a toddler by Tandberg, including urinating on a child in the shower and forcing a four-year-old to watch pornography; (4) severe drug and alcohol abuse, including warnings of "drug related volatility" and warnings of a six-year-old ingesting cocaine; (5) rape of a twelve-year-old babysitter by Tandberg; (6) unsecured firearms left within reach of small children; and (7) children under the age of 10 left alone and unsupervised for hours on end. As new referrals piled up,

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Facts Cont'd: DSHS/DCYF continued to take no meaningful action - despite consistently noting "chronic concerns," "chronic problems," numerous "prior referrals," "little improvement," a "[c]onsiderable history of domestic violence," "quite a history of neglect and abuse from both parents," Tandberg's "violent history," and "[e]xtensive CPS history with on-going concerns of abuse." DSHS/DCYF finally removed all five of the children from Tandberg and Perry in August 2006, citing the family's "lengthy and concerning CPS history."

Injuries: Emotional distress.

Result: PLAINTIFF SETTLEMENT for \$2,200,000.