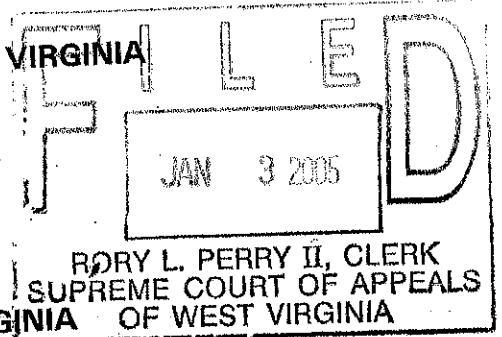


IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

In re: ELIZABETH A., RICHARD O. and KIMBERLY O.

No. 32166



RESPONSE ON BEHALF OF THE WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

COMES now the West Virginia Department of Health and Human Resources, Office of Social Services (the "Department") by and through counsel, John C. Krivonyak, Assistant Attorney General, and submits this response in the above-styled matter.

The Department has thoroughly reviewed the brief filed by the Guardian Ad Litem on behalf of the Appellants, Elizabeth A., Richard O. and Kimberly O., and joins in the arguments advanced by the Guardian Ad Litem on the issues of the Circuit Court's dismissal of the abuse and neglect petition, refusal to grant the guardian ad litem's motion for forensic child maltreatment evaluation of the clients, refusal to allow the child victim to testify and the Court's failure to act in a timely manner.

In addition, the Department wishes to provide additional information about the children's current custody status. The children have all been in the same foster care placement since their removal from their parents' residence. All three children are doing very well and the foster parents have indicated a willingness to adopt these children once the appeal process has been completed.

**CONCLUSION**


WHEREFORE, the Department respectfully requests that this Court set aside the Circuit Court's findings and rulings and remand this case back to the Circuit Court for further disposition

Respectfully submitted,

WEST VIRGINIA DEPARTMENT OF  
HEALTH AND HUMAN RESOURCES

By Counsel

DARRELL V. McGRAW JR.  
ATTORNEY GENERAL

  
\_\_\_\_\_  
JOHN C. KRIVONYAK (W. Va. Bar No. 2107)  
ASSISTANT ATTORNEY GENERAL  
WEST VIRGINIA DEPARTMENT OF HEALTH  
AND HUMAN RESOURCES  
350 Capitol Street, Room 730  
Charleston, West Virginia 25301-3704  
(304) 558-0587