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**FEDERAL COURT OF APPEALS REVERSES DISTRICT COURT ORDER
DISMISSING FOSTER CARE LAWSUIT**

The Fourth Circuit Court of Appeals today issued a decision rejecting the state’s attempt to dismiss a federal class action on behalf of the children of the state that asserted a wide range of systemic failings. The lawsuit was filed in 2019.

Ruling that neither the abstention doctrine – in which a federal court declines to hear a case because of pending state court proceedings – nor the mootness doctrine – when all of the named plaintiffs no longer have live claims – barred the federal case. The federal appeals court reversed a district court order that ended the case. It now goes back to the federal district court for further proceedings.

Writing for the court, Judge Henry F. Floyd specifically rejected the state’s attempt to “deny all foster children resort to federal courts,” and found that the district court had impermissibly expanded earlier rulings on these issues. The Court found that “For years, West Virginia’s response to any foster-care orders entered as part of the individual state hearings seems to have been to shuffle its money and staff around until the orders run out, entrenching rather than excising structural failures.”

In its ruling the Court highlighted “shocking” stories of two of the plaintiffs: Jonathan, who spent “a total of 7 years behind closed and locked institutional doors,” and Anastasia, who entered foster care at 11 and was sent to emergency shelters, 7 different fosters homes and was residing in an out-of-state facility at the time the lawsuit was filed.

The state had argued that the case would interfere with state court proceedings. In a strongly worded decision, the Fourth Circuit rejected the state’s argument and allowed the case to proceed, reinstating the case in the district court before Judge Thomas E. Johnson.

“The West Virginia child welfare system harms children every day, with its shockingly inadequate staffing, lack of programs and services, and general mismanagement,” said Marcia Robinson Lowry, lead attorney for plaintiff children. “We hope this is a significant step forward toward real reform of a very serious problem that the state has repeatedly dodged for far too long.”