



ORIGINAL

BEFORE THE SUPREME COURT
STATE OF OKLAHOMA

FILED
SUPREME COURT
STATE OF OKLAHOMA

AUG - 9 2016

MICHAEL S. RICHIE
CLERK

JOHN STANLEY AND CARROL STANLEY,)
GUARDIANS AND NEXT FRIENDS OF W.M.;)

RHONDA CAIN, POWER OF ATTORNEY FOR)
S.K., GUARDIAN OF D.K., AND NEXT)
FRIEND OF S.W.K.;)

DEBRA SHADID, AS PARENT, GUARDIAN)
AND NEXT FRIEND OF M.V.;)

SHELBE PATTON, ADVOCATE VOLUNTEER)
FOR H.M.;)

KIMBERLY GABRIEL, GUARDIAN AND)
NEXT FRIEND OF A.B.;)

AMANDA MOORE, GUARDIAN AND)
NEXT OF FRIEND OF D.W.;)

ALL TAXPAYER/CITIZENS Plaintiffs,)

vs.)

MARY FALLIN,)
GOVERNOR OF THE)
STATE OF OKLAHOMA,)
AND)
PRESTON DOERFLINGER,)
SECRETARY OF FINANCE AND)
DIRECTOR, OFFICE OF MANAGEMENT)
AND ENTERPRISE SERVICES,)

Defendants.)

#115244

Case No. _____

Original	_____
Received	_____
Marshall	_____
Revised	_____
Certified	_____
Updated	_____

PETITION FOR WRIT OF MANDAMUS
AND APPLICATION TO ASSUME ORIGINAL JURISDICTION

COME NOW the Plaintiffs herein by and through their attorney of record, David R. Slane, OBA#16156, and for their cause of action state as follows:

1. A. The 55th Oklahoma Legislature First Regular Session convened on the first day of February, 2015 and in that session both houses approved a budget and appropriated a budget pursuant to Article X §23 of the Constitution of the State of Oklahoma. The Governor approved and signed the budget legislation into law on or about the 1st day of June, 2015.

B. Upon Executive Branch approval it was required by law that the appropriations be allocated in the appropriate ratio on a pro-rata basis to each designated agency pursuant to 62 OS §34.49, paragraphs A. and F.

2. The Governor, Mary Fallin, under Title 74 § 10.3, created a cabinet and appointed Secretary of Finance and Director of Office of Management and Enterprise Services, Preston Doerflinger. As Chief Executor and Governor, she is responsible for oversight of Mr. Doerflinger and his appropriations responsibilities.

3. The Secretary of Finance and Director of Office of Management and Enterprise Services (hereafter Director) made a 3% across the board budget cut January 6, 2016 due to a revenue failure which occurred December 23, 2015. Thereafter a second 4% budget cut was ordered by the Director on the 3rd day of March, 2016 due to a second and subsequent revenue failure.

3. A. Title 62 OS §34.49.F. provides in part that:
"In the event of a failure of revenue the Director of Office of Management and Enterprise Services shall control the allotment to prevent obligations being incurred in excess of the revenue to be collected. However, within each state fund where a revenue failure occurs, the Director of Office of Management and Enterprise Services shall make all reductions apply to each state agency or special appropriation made by the State Legislature, *in the ratio that its total appropriation for that fiscal year bears to the total of all appropriations for that fiscal year*, as provided in Section 23 of Article X of the Oklahoma Constitution." (emphasis added)

B. The Executive Branch under Governor Mary Fallin along with the Director made reductions in a ratio greater than was necessary and legally permitted pursuant to Title 62 O.S. §34.49.F.

C. As a result of the Statutory and Constitutional violations the Governor and Director have caused approximately one hundred forty million eight hundred thousand dollars (\$140,800,000.00) to not be appropriated as required by the approved budget.

4. As a result of the the Executive Branch failure to allot the appropriation as required by Title 62 O.S. §34.49.F., and Article X §23, various state agencies and Boards and Commissions did not receive allotted and appropriated funds as adjusted to the appropriate ratios required by law under the approved budget.

PLAINTIFF'S CAUSE OF ACTIONS

5. Further, as a result of the Statutory and Constitutional violations the taxpayers/recipients of agency services have been denied benefits. Specifically Plaintiffs below have been denied the following benefits and or services:

John Stanley and Carrol Stanley, guardian and next friends of W.M.:

Plaintiff is the legal guardian of W.M. Due to budget cuts her wards HTS training specialist was eliminated/reduced. She is an eighty year old legal guardian and had her volunteer guardian advocate program eliminated. (See attached Exhibit 1)

Rhonda Cain, power of attorney for S.K., as guardian for D.K. and next friend of, S.W.K.:

Plaintiff has had S.K.'s DLS Services denied. Plaintiff has been told her DLS services were denied due to "no funds" according to DHS. Further, as legal power of attorney has had volunteer advocate program eliminated.

D.K. and S.K. have had counseling from mental services reduced/denied. D.K.'s eyeglasses have been denied due to budget cuts (See Exhibit 2).

Further, S.W.K. has received delayed supplemental support payments from DHS and there has been a delay on waiting for waiver of services.

Debra Shadid, as parent, guardian and next friend of M.V.:

Due to budget cuts; received in home waiver but denied community waiver, HTS training specialist pay has been reduced due to cuts to the level that they feel it is affecting the quality of staff. As a legal guardian has lost volunteer guardian advocate program (ARCCORPS).

Shelbee Patton, volunteer advocate for H.M.:

The Plaintiff who is unrelated and a volunteer advocate for H.M. who has developmental disability has lost her TARC advocate assistance program. (See Exhibit 1)

Kimberly Gabriel, guardian and next friend of A.B.:

Plaintiff has had her TARC benefits terminated as a legal guardian volunteer. (See Exhibit 1) Her ward is unrelated. He suffers as he is blind, intellectually disabled, non-verbal and has been diagnosed with cancer. The guardian believes without services the ward will die.

Amanda Moore, guardian and next friend of D.W.:

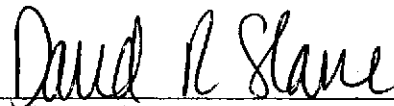
The plaintiff is the guardian of D.W. who is intellectually challenged and received services through HTS and was approved for twenty-four hour a day seven day a week assistance but has been notified that it has been reduced due to budget cuts by DDS. Further, the guardian has been told her HTS services were cancelled. (See Exhibit 1) Further, as legal guardian has had volunteer guardian advocate program eliminated.

WHEREFORE, the Plaintiffs request an Order of Mandamus specifying that the Chief Executive, Governor Mary Fallin and the Director, Preston Doerflinger, order the appropriate ratio under Title 62 O.S. §34.49.F., and Article X §23, as appropriated and allotted pursuant to the provisions of the state budget, approved by the First Regular Session of the 55th Oklahoma Legislature and signed by Governor Mary Fallin.

WHEREFORE, the Plaintiff's do not request any monetary damages or relief, but only pray for a court order for the Defendant's to follow the law.

WHEREFORE, counsel in this action acts pro-bono and asks for no attorney/legal fees or cost.

Respectfully submitted,



David R. Slane, OBA# 16156
427 N. Meridian Avenue
Oklahoma City, OK 73107
(405) 319-1800
(405) 319-1802 Facsimile

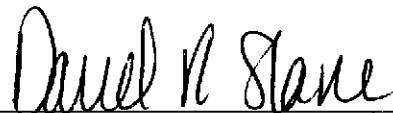
CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of August, 2016 a true and correct copy of the above and foregoing instrument was hand delivered and mailed via certified mail to the following:

Governor Mary Fallin
212 State Capitol
2300 N. Lincoln Blvd.
Oklahoma City, OK 73105

Preston Doerflinger
Office of Management and Enterprise Services
122 State Capitol
2300 N. Lincoln Blvd.
Oklahoma City, OK 73105

Oklahoma Attorney General's Office
313 NE 21st Street
Oklahoma City, OK 73105



David R. Slane

MANDAMUS REQUEST

The Governor of the State of Oklahoma and her appointee, Director Doerflinger, have failed under the Constitution of the State of Oklahoma and Title 62 O.S. §34.49.F., to perform their Constitutional and Statutory duties to make all reductions apply to each state agency "**in the ratio** that its total appropriation for that fiscal year bears to the total of all appropriations for that fiscal year" due to the failure of revenue. The initial cut of 3% took effect January 1, 2016 and the second and subsequent cut of 4% took effect March 3, 2016. Since said time the violations have not been corrected nor have they been corrected as of the date of this Petition.

As a result of this violation of their Constitutional duties Plaintiffs herein are requesting this Honorable Court issue a Writ mandating that the Defendants herein, and each of them, execute their duties pursuant to Article X §23 and Title 62 O.S. §34.49, paragraphs A. and F.

Should this Court fail to act the Plaintiff will have no other remedy under the law due to the Executive Branch failure to follow the Constitution and Statutes.

REQUEST TO ASSUME ORIGINAL JURISDICTION

COMES NOW the Plaintiff, and requests that the Supreme Court of the State of Oklahoma assume original jurisdiction in this matter. In support thereof the Plaintiff would advise the Court:

1. The Case involves a Constitutional issue.
2. The Constitutional issue involves the Legislative Branch and its appropriations duties involving millions of dollars of tax revenue which ultimately affects thousands of taxpayer/citizens of the State of Oklahoma.
3. The Constitution and Statutory violations allegedly involve the Executive Branch (including, *inter alia*, the Governor of the State of Oklahoma, Mary Fallin, and her appointed

Secretary of Finance and Director of Oklahoma Management and Enterprise Services (OMES), Preston Doerflinger) as it relates to their duties under the Oklahoma Constitution.

4. Inaction regarding the cut beyond the appropriate ratio will ESTABLISH A PRECEDENT which would allow the Executive Branch to circumvent the law as mandated through the annual appropriations process.

5. The issue presents a case of first impression. One which has a great impact on multiple state agencies and affects multiple taxpayer/citizens, presenting issues which will ultimately end up before the Supreme Court.

6. The issues, if unresolved will have a great impact on essential core governmental services and operations.

7. The inherent delays of district court proceedings will have a grave impact on taxpayer/citizens of the state.

WHEREFORE, the Plaintiff requests that this Court grant original jurisdiction in this matter.

Respectfully Submitted,

A handwritten signature in black ink that reads "David R. Slane". The signature is written in a cursive, flowing style.

David R. Slane, OBA#16156
427 N. Meridian
Oklahoma City, OK 73107
(405) 319-1800
(405) 319-1802 Facsimile

VERIFICATION

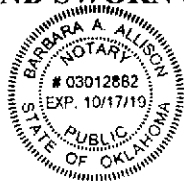
STATE OF OKLAHOMA)
)
COUNTY OF OKLAHOMA) ss:

I, JOHN LEWIS STANLEY, of lawful age and being first duly sworn upon oath, deposes and states as follows:

1. That I am a Plaintiff in the action herein.
2. I have reviewed the attached Application for Writ.
3. That I am familiar with the contents thereof, and that the matters and things therein contained are true and correct to the best of my knowledge and belief.

John Lewis Stanley
PLAINTIFF

SUBSCRIBED AND SWORN to before me this 9 day of August, 2016.



Barbara A. Allison
NOTARY PUBLIC

My Commission Expires:

10/17/19

My Commission Number:

03012882

VERIFICATION

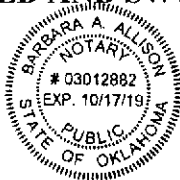
STATE OF OKLAHOMA)
) ss:
COUNTY OF OKLAHOMA)

I, Cathal Lee Stanley of lawful age and being first duly sworn upon oath, deposes and states as follows:

1. That I am a Plaintiff in the action herein.
2. I have reviewed the attached Application for Writ.
3. That I am familiar with the contents thereof, and that the matters and things therein contained are true and correct to the best of my knowledge and belief.

Cathal Lee Stanley
PLAINTIFF

SUBSCRIBED AND SWORN to before me this 9 day of August, 2016.



Barbara A. Allison
NOTARY PUBLIC

My Commission Expires:
10/17/19

My Commission Number:
03012882

VERIFICATION

STATE OF OKLAHOMA)

COUNTY OF OKLAHOMA)

ss:

I, Rhonda Cain, of lawful age and being first duly sworn upon oath, deposes and states as follows:

1. That I am a Plaintiff in the action herein.
2. I have reviewed the attached Application for Writ.
3. That I am familiar with the contents thereof, and that the matters and things therein contained are true and correct to the best of my knowledge and belief.

Rhonda Cain
PLAINTIFF

SUBSCRIBED AND SWORN to before me this 9 day of August, 2016.



Barbara A. Allison
NOTARY PUBLIC

My Commission Expires:

10/17/19

My Commission Number:

03012882

VERIFICATION

STATE OF OKLAHOMA)
)
COUNTY OF OKLAHOMA) **SS:**

I, Debra Shadid, of lawful age and being first duly sworn upon oath, deposes and states as follows:

1. That I am a Plaintiff in the action herein.
2. I have reviewed the attached Application for Writ.
3. That I am familiar with the contents thereof, and that the matters and things therein contained are true and correct to the best of my knowledge and belief.

Debra Shadid
PLAINTIFF

SUBSCRIBED AND SWORN to before me this 9 day of August, 2016.



Barbara A. Allison
NOTARY PUBLIC

My Commission Expires:
10/17/19


My Commission Number:
03012882

VERIFICATION

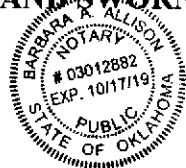
STATE OF OKLAHOMA)
)
COUNTY OF OKLAHOMA) ss:

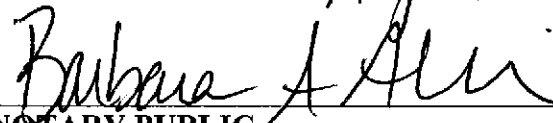
I, Shelbee Patton, of lawful age and being first duly sworn upon oath, deposes and states as follows:

1. That I am a Plaintiff in the action herein.
2. I have reviewed the attached Application for Writ.
3. That I am familiar with the contents thereof, and that the matters and things therein contained are true and correct to the best of my knowledge and belief.


PLAINTIFF

SUBSCRIBED AND SWORN to before me this 9th day of August, 2016.




NOTARY PUBLIC

My Commission Expires:
10/17/19


My Commission Number:
03012882

VERIFICATION

STATE OF OKLAHOMA)
)
COUNTY OF OKLAHOMA) ss:

I, Kimberly Gabriel, of lawful age and being first duly sworn upon oath, deposes and states as follows:

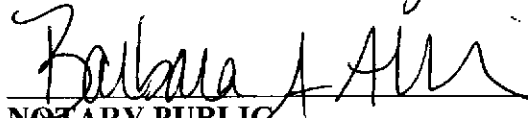
1. That I am a Plaintiff in the action herein.
2. I have reviewed the attached Application for Writ.
3. That I am familiar with the contents thereof, and that the matters and things therein contained are true and correct to the best of my knowledge and belief.



PLAINTIFF

SUBSCRIBED AND SWORN to before me this 9th day of August, 2016.





NOTARY PUBLIC

My Commission Expires:

10/17/19

My Commission Number:

03012882

VERIFICATION

STATE OF OKLAHOMA)
) ss:
COUNTY OF OKLAHOMA)

I, Amanda Moore, of lawful age and being first duly sworn upon oath, deposes and states as follows:

1. That I am a Plaintiff in the action herein.
2. I have reviewed the attached Application for Writ.
3. That I am familiar with the contents thereof, and that the matters and things therein contained are true and correct to the best of my knowledge and belief.

Amanda Moore
PLAINTIFF

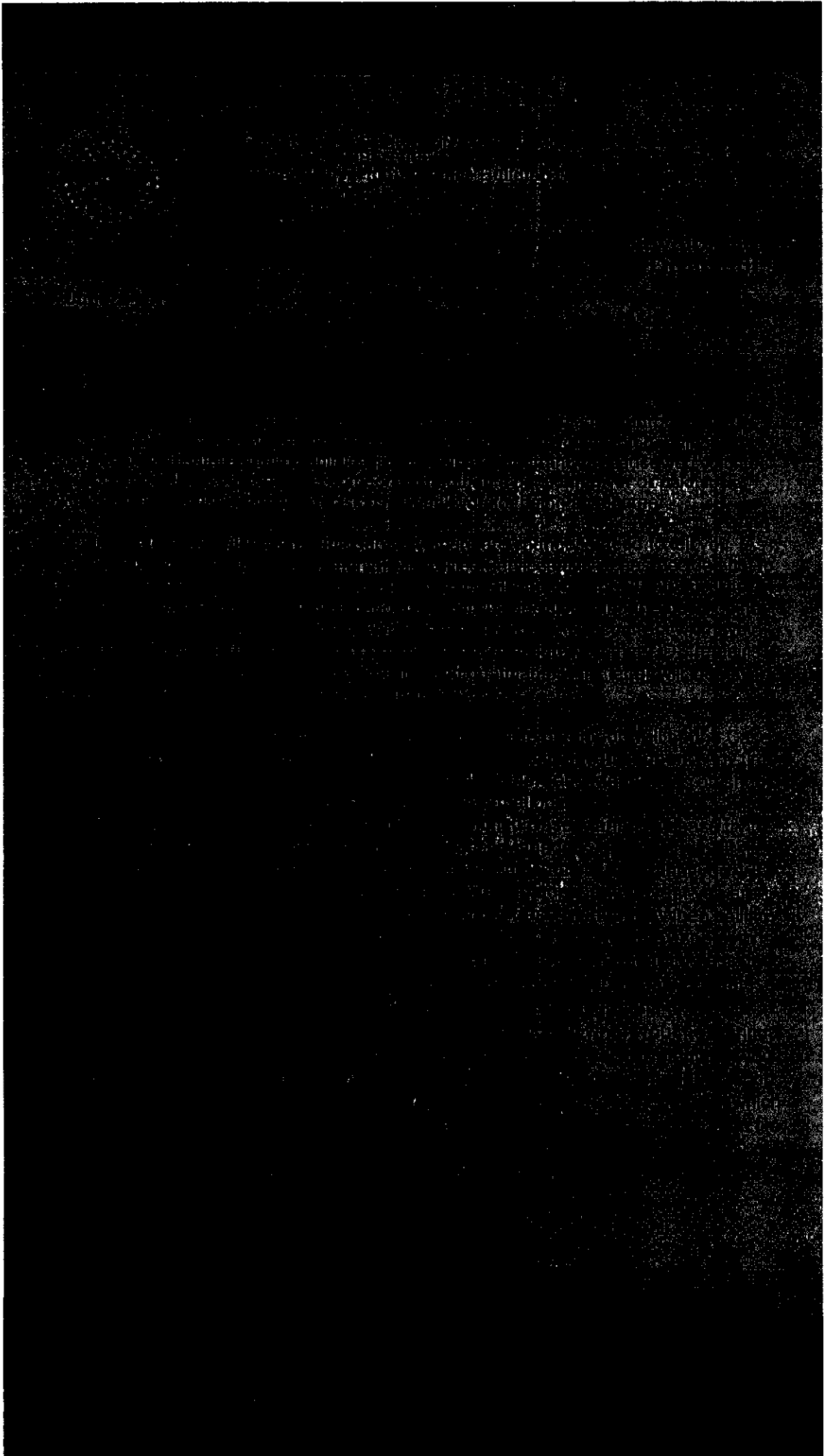
SUBSCRIBED AND SWORN to before me this 9 day of August, 2016.

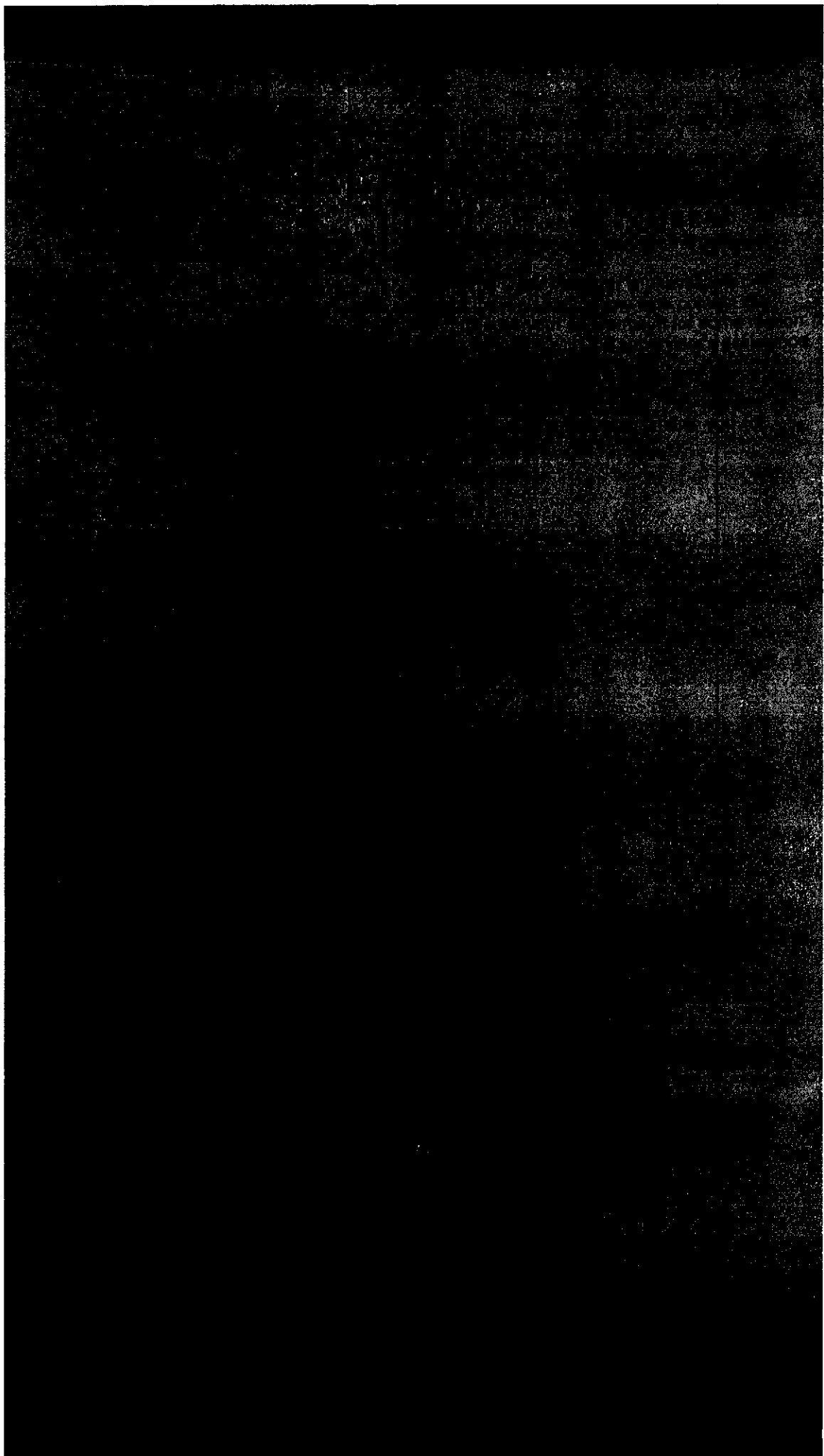


Barbara A Allison
NOTARY PUBLIC

My Commission Expires:
10/17/19

My Commission Number:
03012882





Rhonda Cain

From: Alfred, Joyce <Joyce.Alfred@okdhs.org>
Sent: Friday, August 5, 2016 7:28 AM
To: Rhonda Cain
Cc: 'Serafino, Chris'
Subject: RE: DK

The waiver has paid for glasses before but that was way before budget crisis. If you want to request them I will need a prescription and price quote from EyeMart Express and I will not guarantee that they will be paid by the waiver. If Dasha enough money she probably should pay for them herself. Thank you!

Joyce Alfred
Case Manager II
DDSD Area 1
(405)522-6949
Fax (405) 522-6995

From: Rhonda Cain [mailto:rhondacain@cox.net]
Sent: Thursday, August 04, 2016 2:41 PM
To: Alfred, Joyce
Cc: 'Serafino, Chris'
Subject: RE: DK

Hey Joyce!

Dasha's staff is taking her today to get her old glasses from my grandparents but I haven't heard back on whether or not glasses can be covered by DDS? The glasses she will be wearing are 4 years old (the pair she just broke was provided by Lions Club last year). I am having Virginia make an appt w/her optometrist to get a new script ASAP. Please advise!

From: Rhonda Cain [mailto:rhondacain@cox.net]
Sent: Wednesday, August 3, 2016 2:08 PM
To: 'Serafino, Chris' <cserafino@dungarvin.com>; 'Meghan Jones' <mjonesbcba@gmail.com>; 'karenpounds@att.net' <karenpounds@att.net>; 'Joyce.Alfred@okdhs.org' <Joyce.Alfred@okdhs.org>; 'wonderfulopp@cox.net' <wonderfulopp@cox.net>
Subject: RE: DK

Thanks Chris, that will be helpful! Dasha called me last night and told me she snapped her glasses in two because she was frustrated. We talked about other things she could have done when she's feeling this way. I also explained natural consequences such as not having glasses and the cost of replacing them. She said she can't see without them and wants to wear them now. My aunt left her old glasses at my grandparents on Monday night after we moved my mom's furniture. I texted Virginia and someone will take her by there this afternoon to get them. This prescription is about 4 years old. The pair she had was provided by the Lions Club at last year's Special Olympics so it's not really possible to replace the frame. Joyce – Dasha has never had glasses covered by DDS. Is that an option? They cover a pair for my mom every 2 years.

From: Serafino, Chris [mailto:cserafino@dungarvin.com]
Sent: Tuesday, August 2, 2016 1:05 PM