

Health Impact News

Medical Kidnapping Children in the United States: Louisiana

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Louisiana

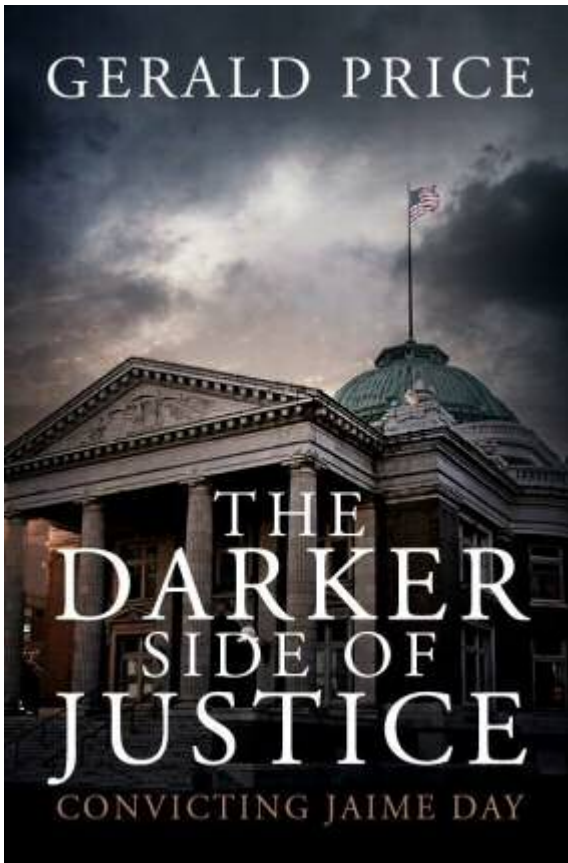


Judge Ernestine S. Gray

Orleans Parish Juvenile Court



**EXCLUSIVE: State Corruption
Exposed in Louisiana High Profile
Medical Kidnap Case**



Book cover of “The Darker Side of Justice” written by Gerald Price. Tate Publishing.

EXCLUSIVE: Father speaks out for the first time on rampant corruption, collusion in daughter's high-profile abuse trial, conviction

Louisiana's Third Circuit Court Vacates Original Sentence, New Hearing Expected To Consider 'Legal Error' on Latest Re-sentencing

by **Health Impact News/MedicalKidnap.com**

Jaime Day and her children's story reads like a Hollywood drama – so unbelievable it seems to be fiction.

Evidence Planted, Media Firestorm Begins

Gabe was a troubled nine-year-old boy who lived in Lake Charles, Louisiana. His biological mother used drugs, and participated in drug-related crimes. Documented by multiple doctors, counselors and hospitals as dealing with extreme mental illness, he would defecate in his pants at school in order to be taken home, refuse food and attempt to harm himself. On three occasions, he harmed himself seriously enough that he had to be taken to the emergency room.

Upon each of Gabe's visits to the emergency room, the hospital staff would conduct an evaluation and place him on the psychological ward for a five-day stay. According to his grandfather, Gerald Price, Gabe loved these stays because the hospital staff catered to him completely. He later admitted that he had deliberately self-inflicted so that he would be taken to the hospital.

In September 2009, a child psychologist started him on Risperdal and Depakote. These drugs, used for schizophrenia and bipolar disorder, were prescribed at adult doses. The mood stabilizer (Depakote) came with an FDA warning regarding suicidal thoughts.

Both of these drugs have been involved in federal lawsuits for off label use. In 2013 Johnson & Johnson's settled for \$2.2 billion for illegally marketing Risperdal for "controlling aggression and anxiety in elderly dementia patients and treating behavioral disturbances in children and in individuals with disabilities," and included a brazen kickback scheme to Omnicare Inc., a pharmacy supplying nursing homes. ([Source.](#)) Similarly, Abbott Laboratories agreed to pay the federal government \$1.6 billion for illegally marketing Depakote for uses that were never approved by the FDA in 2012. ([Source.](#))

Gabe's father Murry Day and his wife Jaime eventually received full custody of Gabe when his mother's parental rights were terminated. Jaime, a young mother who had few resources and a frequently absent husband, was trying to make ends meet, keep her marriage together and care for her troubled step-son as well as her own children with Murry, Kolton and Kyler.



Image provided by family.

When Gabe became too unmanageable at school, he was recommended for a state-certified, doctor-referred program

called “Home Bound” for students with significant medical conditions who cannot handle a school environment. Jaime sought out and enrolled him with a licensed family counseling program called *Helping Hands*, with weekly visits. She and her parents applied with every agency available, but found no long-term help programs for children with mental conditions such as Gabe’s in their home state of Louisiana.

A Department of Children & Family Services (DCFS) call from a disgruntled relative made a report of a child “locked and tied” in a back room of Jaime’s house. The report also indicated he was being starved. A deputy from the sheriff’s office was dispatched to Jaime’s home. At the time of his arrival at the hospital, Gabe had physical indications on his body that were consistent with the self-inflicting history, for which he was by now well known.

However, the hospital and the sheriff’s office immediately began to pursue proving someone was abusing Gabe — and Jaime was the prime suspect. Within days, DCFS removed Jaime’s two boys. On March 8, 2010, Jaime was arrested on an indictment of thirty-two counts of cruelty to a juvenile, five of which were listed as second degree cruelty. Her bail was set at five million dollars.

Jaime’s father Gerald described what happened next.

Local media immediately went to work after Jaime’s arrest. What they reported was completely off, wild, and irresponsible... The report said he (Gabe) was tied to a doorknob with a dog leash and starved. What made that report preposterous was the obvious fact that if a nine-year-old boy were tied to a doorknob, he would simply untie himself. They described a urine- and blood-soaked mattress in his room. By this time, my family was literally in shock. We

could not possibly recognize what was being reported, except we certainly recognized our daughter's picture on the front page.

The media firestorm was intense, with the local sheriff speaking to the local news saying, "The family claims she is innocent, but the evidence is clear." Throughout the rest of both the family court and criminal court proceedings, media was present, with stories appearing all over the Southeastern U.S.

Despite the later testimony of the DCFS worker that the lead detective confessed to planting the evidence, as well as the sheriff's deputy's testimony that the scene at the home was not anything like the allegations described, and despite the DCFS worker's repeated insistence that the young mom was a good parent, as well as the foster mother who carefully documented the extent of Gabe's mental and emotional disturbances....the family claims Jaime had already been judged and condemned in the public's mind. The media stoked tremendous community outrage which created a cauldron of what the family believes to be collusion and corruption that included DCFS, the state of Louisiana, the District Attorney's office, the state's psychologist, and others, which ultimately sent a young mother to jail for 30 years.

Devastated, their lives in tatters, splashed all over the media and smeared beyond repair, justice seemed a travesty to Jaime Day and her parents, Gerald and Sherri Price. Clinging to their faith, bolstered by friends and a close-knit church community that had known Jaime and the kids many years, they threw all the resources they had into the fight of their lives. Still in jail, Jaime was not left in peace, but endured the inmates jeering, cursing, and spitting on her.

Grandparents Denied Custody Because They Believed Their Daughter was Innocent

Slowly, the story began to unravel. In family court, DCFS tried to prove that Jaime's boys could not go to live with her or with their grandparents.

"We were informed that because we believed our daughter was telling the truth that we would not be considered for placement of the children," says Gerald.

Gabe was put in a separate foster parent's home from that of the other two boys.

Family Court – Judge Angry with Evidence Concealed and Revealed at Last Minute

While Gabe was in the foster home, his foster mother maintained a journal where she kept a record of Gabe's repeated bizarre and self-injurious behavior, which mirrored the claims of Jaime and her family. This journal appeared to not only have been in DCFS and the state psychologist's possession for months, but concealed from the defense and the family court for more than a year— a criminal offense. In a last-minute court-room drama, the journal was provided to Jaime's defense attorney literally as the hearing was happening.

The judge was livid.

At no time in this lengthy hearing was this journal presented. You know, it could have made some sense, if any, in the chain

of events that can only be described as a nightmarish carnage in the lives of these babies, not to mention what can only be best described as a media feeding frenzy...

Further, this Court will order that the Department of Children & Family Services show cause ... why this Department should not be held in

contempt for failing to provide the information in its possession that has affected the outcome of this case. These parents have been denied a

fair trial. This Court will not put up with that and this Court will take all available necessary steps to investigate why such crucial evidence was omitted, withheld... [1]

Boys Returned to Grandparents but Criminal Trial Looms



After two years living in an unknown home with strangers, Jaime's boys, Kolton and Kyler, aged six and eight, were immediately returned to family, to live with their grandparents. Gerald, Jaime's father and the boys' grandfather with whom they now lived, says the two boys would often request to see their mother and be reunited with her.

But it wasn't over yet. Their mother had yet to be tried in criminal court.

Jaime and her family filed a series of federal lawsuits arguing

her civil rights had been denied. Additionally, they filed a motion for sanctions against DCFS, and documents were filed calling for a state board of ethics review of the state's expert psychologist, which could produce disciplinary action against him and his license to practice.

Criminal Trial Injustice

In Jaime's criminal trial, the same psychologist who had already been proved duplicitous, was again permitted to be the expert and allowed to discredit the information found in the foster mother's journal to an uninformed and unsuspecting jury. The jury had no knowledge that this was a man in a fight for his professional career and had every unethical motive for attacking the journal's credibility.

Besides the use of the discredited psychologist, the trial featured an apparent effort to influence or coerce the testimony of a witness by an investigator from the sheriff's office. The investigator was removed from the trial but the damage was done – the witness suddenly remembered “new” information. Jaime and her family were amazed – no mistrial was called.

Defense Lawyer Turns Face – Paid Off?

Most devastating of all, though, was the reported sudden collapse of any effort on the part of Jaime's defense attorney. He had defended her and her family vigorously in family court, yet in the final days before her criminal trial, he was allegedly offered and took a case defending the assistant district attorney against charges of sexual assault. This created what the family feels was a conflict of interest. Suddenly, the lawyer who had worked so hard on Jaime's behalf for years, allegedly threw in the towel and demanded

she plead guilty.

Days after he took the D.A.'s case, and as the prosecution rested their case against Jaime, Gerald writes:

We were then stunned by what we endured for the next three hours. [They] (the defense team) were a tag team determined to persuade Jaime to take a deal to plea in exchange for an eighteen-year sentence....

He would attack her with an in-your-face charge, literally yelling at her that this was her only recourse, and if she did not take it, she would spend the next forty years in prison.

Jaime refused – she had no interest in admitting to horrific charges of which she knew she was innocent. Jaime's own lawyer then allegedly persisted in calling her repeatedly over the weekend and even showing up at her house on Sunday afternoon to demand that she plead guilty.

“I will not allow them to take the only thing I have left and that is my declaration of my innocence.”

Of his daughter's absolute determination, Gerald writes:

She loudly and with deep emotion declared to [her attorney], “These people had taken everything I have. I’ve lost my children, my home, I kept pictures of that little boy on my wall for as long as I had a wall to hang it on. I will not allow them to take the only thing I have left and that is my declaration of my innocence. I will never plead guilty to

something I never did, no matter what the penalty.”

Gerald states:

What we do believe is that the case for Jaime was [his] to lose and he lost it. With many exculpatory facts and the absolute weaponry and information needed to dismantle the State’s case and to expose the fraud and conspiracy of its witnesses, he remained relatively silent and allowed Jaime Day’s life to be devastated.

Mother Sentenced to Prison



Jaime spending her birthday in prison (they misspelled her name on the cake.) Photo supplied by family.

According to Gerald, witnesses who should have been called, weren't. Information used by the prosecution went uncontested, and without context. And when the smoke

cleared, Jaime had been convicted and sentenced to 30 years in prison.

“The state and its witnesses were caught in wrongful conduct in the family court proceedings,” Gerald notes. “Consequently, they lost in family court and our children returned to us. This fact was withheld from criminal court, thereby allowing the state’s expert’s testimony to remain untarnished as far as the criminal court and the jury was concerned. So now, they don’t have to be accountable at all for their actions given the fact that they were allowed to basically destroy the very evidence that got them in trouble in the first place in the criminal trial.”

Jaime, heartbroken, was taken to prison. Her parents were left to care for her children and try to explain why their mommy was in jail and couldn’t see them.

Lawyer Withdraws All Lawsuits Against DCFS Against Family’s Will

And the final blow: Jaime’s defense lawyer withdrew all federal lawsuits that had been filed against DCFS and all related parties. Gerald says:

It was an apparent ‘gift’ to the prosecutors of this case and to DCFS. [He] in effect slammed the door on any possibility of ever revisiting these suits upon the State, regardless of whether or not Jaime won a new trial in appeal.

Consider the fact the state and most of its witnesses faced multiple lawsuits for their actions at the time of the trial.

Additionally factor in what all of them stood to lose if Jaime were acquitted and you have a recipe for deep corruption and for an innocent woman going to prison for the remainder of her life.

Her parents, having filed for bankruptcy from the overwhelming burden of the multiple trials and their daughter's defense, vowed to never give up fighting for the daughter they knew to be innocent and their grandchildren's future.

Appellate Court Vacates Original Sentence

Justice moved at a snail's pace. But at the state Appellate Court last year, a trickle began. The court [vacated the original sentence](#), stating it was excessive, and ordered the original trial judge to reduce the sentence. Jaime's incarceration was lowered to a 10 year sentence.

The appellate judge noted:

We find that the thirty-year sentence "shocks the conscience" and is, therefore, excessive...The record reveals a young man with significant mental illness prior to coming into Defendant's care. His behavior was difficult, at best, and often outrageous...It appears much of the harm to G.H. was unintentional, resulting in part from G.H.'s refusal to eat.

Some of the bruising was likely caused by G.H. himself. The record overwhelmingly indicates that Defendant was in a precarious situation; she was caring alone for her own children and G.H., who was such a significant challenge, and was unable to get the assistance G.H. required...

Jaime has now served two years of her sentence. Her parents

and children visit at every available opportunity, but it is never enough. Her parents would find counsel and work to re-file federal lawsuits to hold their local officials accountable, but have exhausted all funding.

New Hope for Declaration of “Legal Error” in Conviction



The 3 boys at church. Image supplied by family.

But there is new hope for Jaime and her children. A motion has been filed with the Appellate Court claiming legal error by the sitting judge when re-sentencing Jaime, due to language used in rejecting the earlier findings. Essentially, the appellate court came to a different conclusion than the earlier conviction. They are requesting a sentence of “time served” be imposed and that Jaime be released. While this would not technically “overturn” Jaime’s original

conviction, for all practical purposes, it would imply that the original decision might not have been appropriate.

Additionally, the Appellate Court, in its original ruling, was not permitted access to the family court information with its additional exculpatory evidence, but will now have access to all evidence, which the family hopes will help. Jaime's father, Gerald Price, has written a book titled, "[The Darker Side of Justice](#)," detailing the excruciating experience their family has lived through.

Jaime's family continues to hope that someday, the truth will come out, justice will be served, and Jaime will be released and reunited with her children and family.

He has a [Facebook Page](#) also:



Help Jaime and her children – Contact the officials below and demand that she be reunited with her family

Louisiana Attorney General

Buddy Caldwell

[Constituent Services](#) (email address available)

225- 326- 6079

Governor Bobby Jindal

[Email the Governor](#)

References

[1] 14th Judicial District Court, State of Louisiana, In the Interest of Jason Kolton Day and Dalton Kyler Day, Juvenile Docket No. 23118, p.5, 10, July 26, 2012, before the Honorable Guy Bradberry

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How One Judge Almost Eliminated Foster Care Simply by Applying the Law - A National Model?



[Image from YouTube.](#)

by **Brian Shilhavy**
Editor, Health Impact News

[The Washington Post](#) recently featured a judge out of Louisiana, Judge Ernestine S. Gray, who has reportedly “reduced foster care numbers to levels unmatched anywhere in the country” in Orleans Parish.

Richard A. Webster, writing for the [Post](#), reports:

Between 2011 and 2017, the number of children in foster care here fell by 89 percent compared with an 8 percent increase nationally. New Orleans children who do enter the system don't stay long. Seventy percent are discharged within a month; nationally, it's only 5 percent.

Gray has effectively all but eliminated foster care except in extreme situations, quickly returning children flagged by social workers to their families or other relatives.

"We shouldn't be taking kids away from their parents because they don't have food or a refrigerator," she said in explaining her philosophy. "I grew up in a poor family in South Carolina, and we didn't have a lot. But what I had was people who cared about me."

The greatest threat of harm for most of the children who appear before her, she stresses, is being unnecessarily removed from their families.

"Foster care is put up as this thing that is going to save kids, but kids die in foster care, kids get sick in foster care," she said. "So we ought to be trying to figure out how to use that as little as possible. People have a right to raise their children."

Read the full article at [The Washington Post](#).



[Image Source.](#)

Reading about this judge *reducing* the number of children taken from their homes and going into foster care must have sounded like music to his ears for attorney Vivek Sankaran, a clinical professor of law at the University of Michigan Law School, where he directs both the Child Advocacy Law Clinic and the Child Welfare Appellate Clinic.

Attorney Sankaran is [on the record](#) as saying: “The United States destroys more families than any other country in the world.”

In his blog, [Rethinking Foster Care](#), he has previously written about how judges could put a stop to most of this simply by applying the law, rather than trying to do “[what is best for the child.](#)”

A few weeks ago on a phone call discussing how systems can support keeping kids safely with their families, a judge abruptly interjected, “I don’t like this focus on the rights of parents. We should always be focusing on the best interest of children at all times, before a kid is removed and once a court

is involved!”

In my years practicing child welfare law, I’ve heard this refrain many, many times. It makes my head hurt.

The refrain pains me because we all know that the “best interest of the child” is not an objective standard. All of us disagree – all the time – about what we think is best for a child. What time should they go to bed? Should they co-sleep with us? How should they be disciplined? Should they be raised in a “free-range” parenting style? Or is helicoptering around them best? Gather a group of parents, chat for a few minutes, and you’ll quickly realize how much we disagree about what is good for children.

Crucial to this framework is the realization that prior to finding a parent to be unfit, judges don’t get to issue orders based on what they think is best for a child. Consider a world where this standard didn’t apply. Do I really want someone to second-guess my decision to allow my children to watch America Ninja Warrior this morning? Or to eat pizza for a week straight? Or to not shower for a few days?

Absolutely not. These are my calls as a parent. The constitutional jurisprudence makes clear that the state doesn’t get to interfere in these decisions until they prove me to be unfit. It is a doctrine that all of us benefit from. Every day. ([Full blog post here.](#))

Attorney Vivek Sankaran [recently wrote about Judge Ernestine S. Gray](#) as well, and not unexpectedly, he took it one step further. He wrote that judges in dependency hearings need to “[own the removal decision](#)” as a true leader.

Some excerpts from [Own the Removal Decision](#) by Vivek Sankaran:

The most striking aspect of the “reforms” instituted by Judge Gray is that she didn’t reform anything. She simply applied the law. Just like all judges are required to do.

But the article missed a key storyline, which has implications for courts across the country. And one that strikes at the heart of what it means to be a leader – the importance of owning the most important decisions your institution makes.

Would Ford introduce a new car without its CEO signing off? Would a college basketball coach allow her assistants let a player onto the team without her knowledge? Would the head of a major company lay off thousands of workers without endorsing the decision? No – because good leaders own their company’s decisions.

In child welfare, there is no decision as important – or life altering – as the one to separate children from their parents. Yet, in courts across the country, judicial practice shows dissonance between our values and our actions.

Judges speak of the devastating impact of removing children. At conferences, experts tell them about the overwhelming research that supports those views. Children share stories about the permanent damage that family separation created in their lives. This “consensus” suggests that our system will invest the time and resources to ensure that only those who children who must enter foster care do so. No decision is more important.

But visiting courthouses across the United States (except

maybe the one in New Orleans) leaves you with a very different impression – that the removal decision is one we don't really value. Courts often entrust the decision to allow emergency removals by child welfare agencies to probation officers, magistrates or referees – who may or may not be trained in child welfare law.

In fact, some courts have even created pre-signed court orders, which they then permit agencies to fill in the blanks.

Then, they permit this same array of actors to preside over the first full removal hearing in court. As a result, those with the least amount of discretion, political power and training are tasked to make the most important decision in a family's life.

So unsurprisingly, they often take the path of least political resistance – to place kids in foster care. Journalists rarely report on the kid who shouldn't have been yanked from his family. It's the "safe" choice.

So here's what I think is the most radical part of Judge Gray's transformation of the New Orleans Juvenile Court. She actually presided over the removal process. She considered the requests for removal. She heard evidence. She applied the law. She owned the most important decision in her courthouse. She led by example.

To all those juvenile court judges out there, follow her example. Don't entrust others in your courthouse to render the most important decision in a family's life. Make sure that you – and no one else – closely examines whether an ex parte removal is warranted, whatever time the request comes in. Is there such an emergency that immediate action is needed without a hearing?

Guarantee families that you will be sitting on the bench at that first removal hearing, even if your busy docket makes it inconvenient.

Own the decision. Because that's what leaders do.

Read the full article at [Rethinking Foster Care](#).