

John Roes, et al, vs. Cynthia McCarthy, et al, , 2001 WL 1548687 (S.D. Fla. 2001)

This was a precedent-setting federal civil rights claim brought by six siblings (collectively called “John Roes” to protect the minors’ identities) who were egregiously physically, sexually and emotionally abused and neglected in a foster / adoptive home in Broward County, Florida.

The foster mother, Jaqui Lynch, locked the children in a 10 x 10 room, which contained only a single blanket on the floor. The children were thrown into the swimming pool for their daily bath, sometimes inside an egg crate for the amusement of the foster mother’s natural adult children. The children were fed as a group out of a single bowl, did not have their own clothes, and were treated like caged animals. Each evening, the foster mother would give each child a dose of Nyquil so that they would fall asleep early in the evening.

The children were between the ages of 1 and five years when first placed in the home, and all were forced to endure these horrendous conditions for nearly five years. All of the children were diagnosed with rickets at the time of removal.

The defendant licensing counselor, tasked with evaluating the background and fitness of the foster parents, and later the defendant adoptions counselor, each knew the situation facing the children. They knew, for example, that:

- The foster mother’s own children had been removed and placed in foster care because of allegations of physical and sexual abuse
- The foster mother’s natural son, who was living in the home, had been charged with a sex-related offense while the Roe children lived there
- The foster parents routinely restricted DCF’s access to the foster home and the foster children.

Federal civil rights claims were also brought against the foster care counselors charged with monitoring and protecting the children while in foster care. Neither of the defendant foster care counselors performed monthly home visits despite specific warnings by their guardian ad litem and DCF-related individuals who had raised serious concerns about the safety and welfare of the foster children in the Lynch home. The defendants simply abandoned the children in the Lynch home where they would have likely remained but for the kindness of a visitor to the home who was astounded by the way the children lived and reported the abuse.

A negligence claim also was brought in state court against the Florida Department of Children and Family Services for its negligent care and supervision of the children as a result of the actions of the individual civil rights defendants.

This case, including the state court negligence claim, settled for \$5 million. It was one of the first Florida foster care case brought by Colodny, Fass, Talenfeld, Karlinsky & Abate P.A., which also used the federal civil rights cause of action 42 U.S.C. § 1983 to recover more than the state sovereign immunity limits of \$200,000.

The case received wide-spread media coverage, and was featured on ABC's 20/20 in May 2002 with a follow up on 2005.