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Wronged Juveniles May Lose Right to Sue

By [IAN URBINA](#)

In a bizarre twist to a closely watched case that rocked the Pennsylvania legal system this year, thousands of youths who had to appear before a corrupt county judge are in danger of losing the ability to sue for damages and court fees.

The potential loss stems from a decision by the State Supreme Court in May that it would help the youths move on with their lives by destroying all documents related to their convictions that it deemed faulty. But doing so would hamper the public's ability to investigate the corruption of the judge, [Mark A. Ciavarella Jr.](#), and limit the youths' ability to sue him.

"This is about destroying evidence," Marsha Levick, chief legal counsel for the [Juvenile Law Center](#), a public interest law firm in Philadelphia, said after appearing on Monday before Judge A. Richard Caputo of Federal District Court in Scranton, Pa., to ask that the records be preserved.

"Without these documents," Ms. Levick said, "it would make it nearly impossible for these kids to get justice."

The Supreme Court has argued that under Pennsylvania law, all copies of a youth's criminal record must be deleted for it to be expunged.

But last week the Supreme Court amended its May order and agreed to preserve, under seal, copies of the records for the estimated 400 juveniles who are named as plaintiffs in lawsuits against Mr. Ciavarella and had requested copies of the records by a June 1 deadline set by the court.

Lawyers for the youths, however, said that the amended order would not safeguard the records of about 6,100 remaining youths, who either had not been told of their rights stemming from the judicial corruption case or had yet to request their records.

The records deal with the convictions of more than 6,500 youths who appeared from 2003 to 2008 before Mr. Ciavarella, who ran the juvenile court of Luzerne County for 12 years.

In February, Mr. Ciavarella and Michael T. Conahan, a judge on the county's Court of Common Pleas, pleaded guilty to tax evasion and wire fraud in a scheme that involved sending thousands of juveniles to two private detention centers in exchange for \$2.6 million in kickbacks. They had been removed from the bench that month.

Mr. Ciavarella appeared Monday at the federal courthouse to file a motion to dismiss a federal lawsuit against him. He would not comment on whether the records should be preserved.

"I'm sorry that I brought such shame to the bench," the former judge told a television reporter at the courthouse. "There's a lot of good people who sit on the Luzerne County Court of Common Pleas who don't deserve to be tarnished by what I did. And, unfortunately, they do get tarnished by that, and that's wrong because they didn't do anything wrong. I did; they didn't."

Four civil lawsuits, which have been consolidated before Judge Caputo, have already been filed against Mr. Ciavarella and Mr. Conahan.

Lawyers for the juveniles said Monday that the records might be important for them to identify and contact each potential member of the class. They are also needed so that investigators and the public can discern the extent of judicial misconduct, the lawyers said.

Zygmunt A. Pines, the Pennsylvania court administrator, [wrote in a June 25 letter](#) to Judge Caputo that the main concern of the Supreme Court was "to ensure that tainted convictions of affected juveniles in Luzerne County be undone as expeditiously as possible."

Mr. Pines also wrote that youths who had not joined any of the lawsuits might not want to have their records preserved.

This month, after Judge Caputo was asked to protect the records, the Supreme Court sent him a letter opposing the move.

On July 2, Judge Caputo denied the request to protect the records, citing federalism prerogatives and concluding that the issue was "best left to the Pennsylvania courts."

Appearing before him on Monday, lawyers for the juveniles argued that the Supreme Court's decision last week acknowledged that Pennsylvania law allowed for records to be expunged even if copies were kept under seal for the sake of evidence in later litigation.

"If they are going to preserve the evidence for 400 of the faulty convictions," Ms. Levick said, "then they should preserve it for all of the faulty convictions."

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