

NACC envisions a justice system wherein every child has his/her voice heard with the assistance of well-trained, well-resourced independent lawyers resulting in the child's rights being protected and needs being met.

Your Commitment To Excellence

Thank you, thank you for your responses to our recent membership survey. We hoped to get a better feel for how NACC membership benefits can be improved to better support your success on behalf of kids and families. What we received from you was much more.

Again and again, members called for more training to improve their practice. Some suggested specific topics they needed to master, and others wanted to improve their skills in court. Many reminded us that discounts and subsidies were needed for attorneys in our field to be able to access the training they needed. Again and again, you told us that what was most important to you about NACC membership was the opportunity to learn from your colleagues so that you can take your advocacy to a higher level.

With all the challenges you face in your work, it's impressive that your thoughts are still with your clients, and on how you can do good by doing better as an advocate. The good news is that NACC is responding to this call. Led by NACC Staff Attorney Andrew Yost, we have expanded our trainings in the last year by working with

states' Court Improvement Program directors to deliver Red Book and other, more specialized and advanced trainings. Our menu of available trainings has significantly expanded, and we're involved in an exciting national partnership to develop and provide online training that would be accessible on demand to individual attorneys, and at a reasonable price.

All of which means you'll soon be receiving another quick, easy-to-do electronic survey, this time asking you for more advice on what you need in

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training and how we can best get that training to you in a way that works for you, your schedule and your budget. The NACC community is fortunate to include the country's leading experts in so many areas of child and family law, and there simply has to be away for us to share that knowledge.

Let's get you what you need, so that you can do what you need to do for each and every client. Please look forward to that training survey, as we look forward to your response. Thank you.

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NACC Executive Committee 2014–2015

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Amicus

The sentencing of youth in conflict with the law in America has been utterly transformed in recent years by several landmark U.S. Supreme Court decisions. For that, we have colleagues across the country to thank, none more so than Juvenile Law Center (JLC,) a Philadelphia-based legal advocacy organization that fights for the rights and interests of children and youth in the care of public agencies. NACC recently signed on to an *amicus* brief filed by JLC in three cases before the Michigan Supreme Court.¹

JLC argued, in support of the three appellants' positions, that *Miller v. Alabama* is retroactive, that life without parole is not a constitutional sentence for juveniles convicted of felony murder, and that every child convicted of murder in Michigan must receive an individualized sentence that takes into account his or her age and circumstances and offers a meaningful opportunity for release.² Life Without Parole — a euphemism for what a youth experiences as a sentence of Death In Prison — has been reexamined by the U.S. Supreme Court as a sentence for youth. As noted in the brief, *Roper* (543 U.S. at 578) held that imposing a death penalty on

juveniles violated the 8th Amendment, in *Graham* (560 U.S. at 82) the Court ruled that Life Without Parole sentences for juveniles convicted of non-homicide offenses violated the 8th Amendment, and *Miller* (132 S.Ct. at 2469) held that mandatory sentences of Life Without Parole for juveniles committing homicide offenses also violate that very same 8th Amendment.³

At the time that these three youth were sentenced, Michigan law mandated a Life Without Parole sentence for their crimes.⁴ Yet the *Miller* prohibition on mandatory Life Without Parole sentences applies retroactively to the appellants under federal law, the brief argues, because (1) the U.S. Supreme Court has already applied *Miller* retroactively in a case before the Court on collateral review, (2) *Miller* announced a substantive rule, which per U.S. Supreme Court precedent is applied retroactively, (3) even if the *Miller* rule were considered procedural, it is a watershed rule and therefore must be applied retroactively, and (4) "the date upon which an unconstitutional mandatory life without parole sentence is imposed cannot convert it into a constitutional sentence," as any ongoing imposition of that sentence is itself an 8th Amendment violation.⁵

The 8th Amendment's prohibition of "cruel and unusual punishments" also provides a categorical bar against Life Without Parole sentences for juveniles convicted solely for aiding and abetting the commission of a felony murder.⁶ Instead, "Every child convicted of murder in Michigan must receive an individualized sentence that takes into account his age and individual circum-

stances and, absent a finding that he is among the rare juveniles for whom life without parole is appropriate, he must be afforded a meaningful opportunity for release based on his demonstrated maturity and rehabilitation."⁷ That's as clear a statement as you're likely to hear on this subject, and NACC encourages our members to support sentencing reform that acknowledges the realities of how children develop and empowers their undeniable potential to change.

NACC Mission

As a multidisciplinary membership organization, we work to strengthen legal advocacy for children and families by:

- Ensuring that children and families are provided with well resourced, high quality legal advocates when their rights are at stake
- Implementing best practices by providing certification, training, education, and technical assistance to promote specialized high quality legal advocacy
- Advancing systemic improvement in child-serving agencies, institutions and court systems
- Promoting a safe and nurturing childhood through legal and policy advocacy for the rights and interests of children and families

1. Brief of Juvenile Law Center, et al. as *AMICI CURIAE* In Support of Appellants Carp, Davis and Eliason, February 21, 2014.

2. *Id.* at pp. 2-3.

3. *Id.* at p. 4.

4. *Id.* at p. 2.

5. *Id.*

6. *Id.* at pp. 2-3.



Case

SANCHEZ V. R.G.L.

The United States court of appeals for the fifth circuit vacated the district courts return order and remanded the case to the district court to consider asylum grants, assessments, and evidence in relation to the exceptions in the Hague Convention.¹ The Articles being considered are 13(b) or 20.²

The court of appeals reviewed a district court decision that found three children were being wrongfully retained in the United States and should be returned to their mother under the Hague Convention.³ The Hague Convention's objectives are to secure the prompt return of children that have been wrongfully removed or retained and to ensure that rights of custody and access under the law in one State are respected in other State's.⁴ Three children were kidnapped from their mother in Mexico and illegally taken across the border into El Paso, Texas, by their aunt and uncle, Miriam and Jose Sanchez.⁵ On July 18, 2012, Miriam Sanchez took the children to the Bridge of the Americas

in El Paso and instructed them to cross back into Mexico where their mother was waiting on them.⁶ While speaking with the Department of Homeland Security, the children stated they did not want to return to Mexico because they feared their mother's boyfriend Arturo Quinonez.⁷ Angelica Sanchez, the mother, and her boyfriend Quinonez were interviewed by FBI agents.⁸ At this time DHS retained custody of the three children, and determined they were unaccompanied alien children who feared returning to Mexico.⁹ The children were transferred to the Office of Refugee Resettlement, Division of Unaccompanied Children's Services, who retained legal custody.¹⁰ The children were placed in the physical custody of Baptist Services Child and Family Services, who provided their education, travel and medical care until the children were placed in a foster home in San Antonio.¹¹ They entered mandatory removal proceedings because they were declared unaccompanied alien children.¹² ORR appointed pro bono counsel for the children as required by U.S.C. § 1232(c)(5)-(6).¹³ A year after their removal from Mexico, their mother, Angelica Sanchez, filed this suit for their return and for an immediate temporary restraining order preventing their transfer out of Texas.¹⁴ The children motioned for a guardian ad litem, which was denied by the district court, but the court allowed the children's ORR-appointed asylum attorney to participate in

the critical stages of the hearing.¹⁵ The district court ordered the return of the children to the petitioner under the Hague Convention, but later stayed the enforcement pending this appeal.¹⁶ After the appeal was filed, the United States Citizenship and Immigration Services granted the children asylum pursuant to 8 U.S.C. § 1158.¹⁷

The court of appeals addresses whether the children have standing to appeal, whether the district court erred in ordering the children's return, and the effect of the asylum grant on the district court's order.¹⁸ The court of appeals ruled the children have standing to appeal because the factors weigh in their favor.¹⁹ The factors are the whether the non-party actually participated in the proceedings below, if the equities weigh in favor of hearing the appeal, and whether the non-party has a stake in the outcome.²⁰ The court of appeals ruled the district court did not err in ordering the children's return because there were no jurisdictional defects, the children have been appointed legal



15. *Id.*
16. *Id.*
17. *Id.* at 3.
18. *Id.*
19. *Id.* at 4.
20. *Id.*

1. *Sanchez v. R.G.L.*, No. 12-50783, 2014 WL 684606 (5th Cir. Feb. 21, 2014).
2. *Id.*
3. *Id.*
4. *Id.*
5. *Id.*

6. *Id.*
7. *Id.*
8. *Id.*
9. *Id.*
10. *Id.*
11. *Id.*
12. *Id.*
13. *Id.*
14. *Id.* at 2.

Do you know of an important case which you feel NACC members should be made aware of?



If so, please let us know. Email: advocate@naccchildlaw.org.



Policy & News

Child Advocates Victorious in Washington State

If legislation to help vulnerable kids and families seems like a long, hard climb in your jurisdiction, take heart from the victories just won by our colleagues in the State of Washington. The state legislature passed three bills last Friday, March 10, leading Seattle's Crosscut.com to call it "a good day for at-risk kids," with advocate and attorney Casey Trupin of Columbia Legal Services noting of one bill, "This has been a long time in the making."

On legal representation for children and youth, the new law will provide an attorney after both parents have had their parental rights terminated. Currently, appointment of attorneys is subject to the court's discretion, and varies across the state, with some counties appointing attorneys based on the child's age and some counties not providing attorneys at all. The bill's sponsor, State Sen. Steve O'Ban, recognized that, "These children, who are essentially orphans, have had very little say in their

own futures. Providing them with a voice in court can make all the difference in the kind of adults they will eventually become."

A second bill makes sealing juvenile offender records in Washington State an automatic event at age 18 unless court action is taken to stop that sealing. Currently, sealing of a juvenile record must be sought on a case-by-case basis, with the criteria having become more strict over time. Sponsor Rep. Ruth Kagi noted the impact of unsealed records on a young person's life when mistakes made by a growing, maturing teenager later block that young adult's path to education and employment. The law changes a practice in place since 1977 in this state.

A third statute requires the state's Office of the Superintendent of Public Instruction to track the personal and academic information of homeless students, reporting the information to the state legislature. To help homeless families, we must first acknowledge, measure and understand the challenges those families face. With the number of homeless students in Washington estimated around 30,000 and rising, even the limited information-gathering mandated in this bill is a major step in accepting and addressing child homelessness in this state.

Congratulations to NACC members and colleagues in the State of Washington for these important victories for children, youth and families.

representation, and the psychological evidence presented to prove there is still a threatening situation back home, are retrospective in nature.²¹ Lastly, the court of appeals ruled the asylum grant does not supersede the enforceability of a district court's order, but it is relevant to whether the Hague Convention exceptions, articles 13(b) or 20, apply.²²

NOTICE TO READERS : Decisions reported herein may not be final. Case history should always be checked before relying on a case. Cases and other material reported are intended for educational purposes and should not be considered legal advice. Featured cases are identified by NACC staff and our members. We encourage all readers to submit cases. If you are unable to obtain the full text of a case, please contact the NACC and we will be happy to furnish NACC members with a copy at no charge.

21. *Id* at 5-8.

22. *Id* at 9.

 [Find additional News, Policy and Training Updates on Facebook and LinkedIn.](#)

REGISTER NOW FOR THE 37TH NATIONAL, CHILD WELFARE, AND FAMILY LAW CONFERENCE

**SUNDAY, AUGUST 17, 2014 9:00AM THROUGH
WEDNESDAY, AUGUST 20, 2014 12:30PM MST**

HYATT REGENCY DENVER
AT COLORADO CONVENTION CENTER
650 15TH STREET, DENVER, CO 80202 USA

VIEW EVENT INFORMATION ONLINE:
[SUMMARY](#) / [AGENDA](#)

CLICK TO REGISTER NOW!
**DEADLINE IS FRIDAY,
AUGUST 15, 2014**

Membership Updates

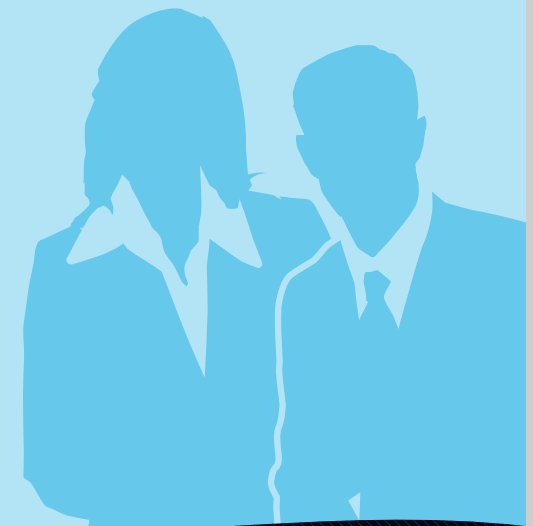
New Member Benefit

As a member of NACC you now receive free access to the Children's Legal Rights Journal. Members may access [recent digital editions of the journal online](#).

Membership Level Names Have Changed!

PREVIOUS NAME	NEW NAME
Regular	Bronze
Supporting & Sustaining	Silver
Patron	Gold
Lifetime	Platinum

Group, trial and student memberships are still available. Please contact the membership team at Membership@NACCchildlaw.org for details.



Child Welfare Law Certification



If you represent children, parents, or the state child welfare agency you may be eligible to become certified in child welfare law. The NACC certification program is accredited by the ABA and has been endorsed by the National Council of Juvenile and Family Court Judges, the Conference of Chief Justices, and the Conference of State Court Administrators.

Certification gives you the recognition as an expert and will help you negotiate better pay for your services.

NACC Child Welfare Law Certification is available to attorneys who serve in the role of Child's Attorney (including Guardian ad Litem, Law Guardian, Attorney ad Litem), Parent's Attorney, and Agency / Department / Government Attorney. The specialization area as approved by the ABA is defined as "the practice of law representing children, parents or the government in all custody, adjudication, disposition, foster care, permanency planning, termination, guardianship, and adoption. Child Welfare Law does not include representation in private child custody and adoption disputes where the state is not a party."

Certification Preparation

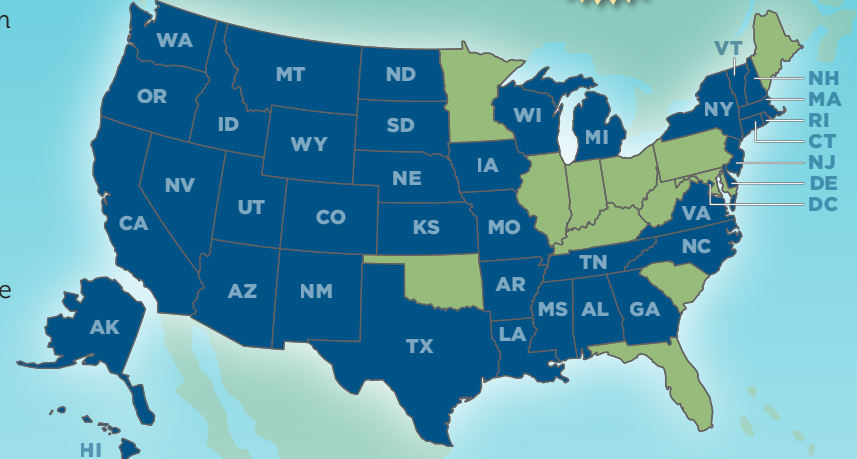
Your legal education, practice experience, and continuing legal education in child welfare, delinquency, family law, and related areas all help prepare you for the certification exam. Upon submitting a Certification Application, you will also receive a copy of the *Child Welfare Law and Practice* (Red Book).

Apply to be certified for free!

NACC has received funding from the U.S. Department of Health and Human Services to pay the application fee for up to 200 applicants for certification. This funding comes through HHS' Children's Bureau. We are now open in 39 jurisdictions and have more than 500 Child Welfare Law Specialists (CWLS). The waivers are available on a first-come, first-serve basis, so don't delay! Applying takes about 20 minutes and applicants then have two years to complete all components including the exam.

Eligibility at a Glance

- 3+ years practicing law
- 30% or more of the last 3 years involved in child welfare law
- 36 hours CLE/3 years (45 hours/3 years CA only) in courses relevant to child welfare law
- A writing sample demonstrating legal analysis in the field of child welfare law drafted in the last 3 years (court memo, motion, brief, article, etc.)
- Substantial Involvement Waivers are available for judicial officers, professors, and policy/supervising attorneys



If you meet these basic requirements, we would love to have you apply while we have funding from Children's Bureau to pay for your \$300 application fee!

To apply or for more information, please visit our Certification page at

www.naccchildlaw.org

or contact Daniel Trujillo, 303-864-5359, or Daniel.Trujillo@childrenscolorado.org