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FOR IMMEDIATE RELEASE

DC Court of Appeals Recognizes Right to Counsel for Youth Committed to DC's Juvenile Agency

Washington, DC, February 6, 2020 – Youth in the District of Columbia's juvenile justice system now have a broader right to an attorney throughout their supervision by the DC Department of Youth Rehabilitation Services (DYRS). In a landmark decision, the DC Court of Appeals held in *In re N.H.M.* that youth have a right to paid representation under the Criminal Justice Act not only in proceedings before the Superior Court, but also in certain DYRS proceedings. N.H.M.—the youth who had been denied such counsel—was represented by Open City Advocates and Sidley Austin LLP in his appeal.

In 2016, the Superior Court committed N.H.M. to the custody and control of DYRS until age 21. Since then, DYRS has had the power to incarcerate him, send him to out-of-state facilities, place him on GPS monitoring, or remove him from his family without court oversight hearings or legal representation. The Court's decision now guarantees that N.H.M. and other similarly situated youth will face these types of proceedings with the guiding hand of counsel.

Penelope Spain, Open City Advocates' CEO, underscores the importance of the Court's decision: "This first-in-the-nation decision reverses the historical trend of ignoring the right to counsel for children under the supervision of DC's juvenile justice system." In the District of Columbia, the courts, DYRS, and even attorneys have routinely failed to understand the importance of the right to meaningful legal assistance after sentencing in juvenile court. The moment young people lose their liberty and are committed to the custody of a government agency is the moment when legal representation is arguably the most critical—judges no longer oversee the government's treatment or placement decisions, and parents have lost custody of their children—and yet this is the moment when legal representation usually ends. This disproportionately affects youth of color. In fact, in 2018, 98% of youth committed to DYRS were Black, yet Black youth comprised only 53% of all youth in DC. "Today's decision is a victory for the District's youth," says Spain. She adds, "The Court recognized that children are different from adults and we must afford children a broader right to counsel to ensure that children receive the rehabilitative services envisioned by our juvenile justice system."

In its decision, the Court recognized that "our juvenile delinquency system was created to be something other than the adult criminal system—it is instead 'a system that . . . treat[s] children as children, in all phases of their involvement' and to that end assures them 'fair hearings'; 'promote[s] youth development'; 'place[s] a premium on the rehabilitation of children with the goal of creating productive citizens'; and 'hold[s] the government accountable for the provision of reasonable rehabilitative services.' In addition, the Court stated, "as our law

assigns the court broader jurisdiction over children than adults, so too does it afford children a broader right to paid representation.”

This victory would not have been possible without the pro bono representation of Sidley Austin LLP. Also in support of this effort, the National Juvenile Defender Center filed an amicus brief with pro bono representation by Kirkland & Ellis LLP, joined by the Coalition for Juvenile Justice, the Juvenile Law Center, the Center for Children’s Law and Policy, the National Coalition for a Civil Right to Counsel, the Mid-Atlantic Juvenile Defender Center, the National Law Center on Homelessness & Poverty, the Juvenile Policy Institute, and Kristin Henning of the Georgetown Law Juvenile Justice Clinic.

Open City Advocates’ mission is to ensure that all youth in the juvenile justice system receive effective legal representation after sentencing and throughout reentry to the community. We serve as a national model by providing long-term mentoring and holistic advocacy services to DC youth during and after incarceration. We safeguard their futures by addressing critical reentry needs such as education, employment, housing, and safety.

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Notes to Editor: To read the full opinion, see <https://www.dccourts.gov/sites/default/files/2020-02/16-FS-1289%20%26%201290.pdf>