

**IN THE CIRCUIT COURT OF CEDAR COUNTY, MISSOURI
TWENTY-EIGHTH JUDICIAL CIRCUIT**

The State of Missouri, <i>ex rel.</i>)	
Attorney General Eric S. Schmitt, and)	
)	
The Missouri Department of Social)	
Services;)	
)	
<i>Plaintiffs,</i>)	
v.)	Case No. 22CD-CV00394
)	
Agapé Baptist Church Inc., d/b/a)	
Agapé Boarding School;)	
)	
<i>Defendant.</i>)	

FIRST AMENDED PETITION FOR INJUNCTIVE RELIEF

1. This action seeks an injunction to cease operations at Agapé Boarding School and remove the children there to safety.

2. The State filed this action on September 7, 2022, the same day that the Missouri Department of Social Services (“DSS”) added a then-current Agapé staff member to the state’s Child Abuse/Neglect Central Registry (“Agapé Staff A”). DSS found, by a preponderance of the evidence, that Agapé Staff A committed child abuse at Agapé.

3. This was the first time that a current Agapé staff member was added to the state’s Child Abuse/Neglect Central Registry, and the State acted immediately.

4. Although Agapé reports that it fired Agapé Staff A on September 7, 2022, an imminent threat of harm continues to exist because Agapé Staff A continues to live on the Agapé property in close proximity to children at Agapé.

5. Agapé's harboring of Agapé Staff A, an individual who is listed on the state's Child Abuse/Neglect Central Registry, presents an immediate health and safety concern for the children residing at Agapé.

6. Agapé employs and harbors other individuals who present an immediate health and safety concern for the children residing at Agapé.

7. Agapé has recently provided the State with incomplete information about the individuals with access to children and adults who reside on the Agapé property.

8. These new developments are sadly consistent with the dark pattern of behavior at Agapé previously exposed by the Attorney General's Office and DSS.

9. Agapé's operation of a residential care facility must cease because it presents an immediate health and safety concern for the children residing at Agapé.

Nature of the Action

10. In the summer of 2021, the passage of House Bill Nos. 557 and 560 (collectively, "HB 557") "close[d] a loophole in [Missouri's] child protection system that had gone unaddressed for decades." Press Release, "Governor Parson signs bill aimed at addressing abuse in unlicensed youth residential facilities," Missouri KidsFirst (July 14, 2021), available at: tinyurl.com/dh2t3aup. Ex. A. The new law keeps more of Missouri's children safe from abuse and neglect.

11. The Attorney General of Missouri and Missouri Department of Social Services have received credible information that Agapé Boarding School is violating the prohibitions of HB 557. The Attorney General and DSS seek immediate

injunctive relief to put an end to this safety concern and protect children from abuse and neglect.

Parties

12. Plaintiff State of Missouri is a sovereign State of the United States of America.

13. Eric S. Schmitt is the 43rd Attorney General of the State of Missouri and brings this action in his official capacity pursuant to Chapter 27. Attorney General Schmitt is authorized to “institute, in the name and on the behalf of the state, all civil suits and other proceedings at law or in equity requisite or necessary to protect the rights and interests of the state, and enforce any and all rights, interests or claims against any and all persons, firms, or corporations in whatever court or jurisdiction such action may be necessary, and he may also appear and interplead, answer or defend, in any proceeding or tribunal in which the state’s interests are involved.” § 27.060, RSMo.

14. As the Supreme Court has explained, “The attorney general has the authority ‘to seek enforcement of the legislature’s statutory purpose.’” *State ex rel. Hawley v. Pilot Travel Centers, LLC*, 558 S.W.2d 22, 30 (Mo. banc 2018), quoting *Fogle v. State*, 295 S.W.23d 504, 510 (Mo. App. W.D. 2009).

15. The “Attorney General, both because of his statutory and common law powers, is a proper party to bring an action for the state...which would prevent injury to the general welfare.” *State ex. rel. Taylor v. Wade*, 231 S.W.2d 179, 182 (Mo. banc 1950).

16. State law explicitly vests Attorney General Schmitt with authority to “seek injunctive relief to cease the operation of the residential care facility and provide for the appropriate removal of the children from the residential care facility and placement in the custody of the parent or legal guardian or any other appropriate individual or entity in the discretion of the court, refer the matter to the juvenile officer of the appropriate county for appropriate proceedings under chapter 211, or other orders as the court determines appropriate to ensure the health and safety of the children.” § 210.1271, RSMo.

17. Attorney General Schmitt sues to ensure the health and safety of children by commencing actions for violations of Chapter 210. § 210.1271, RSMo.

18. Plaintiff Missouri Department of Social Services is a state agency authorized to conduct investigations regarding allegations of abuse and/or neglect of children.

19. State law also explicitly vests DSS with authority to seek injunctive relief to cease the operation of residential care facilities and provide for the appropriate removal of the children. § 210.1271, RSMo.

20. DSS sues to ensure the health and safety of children by commencing actions for violations of Chapter 210. § 210.1271, RSMo.

21. Defendant Agapé Baptist Church Inc., d/b/a Agapé Boarding School (herein, “Agapé”) is a residential care facility located in Cedar County, Missouri.

Jurisdiction and Venue

22. This Court has subject matter jurisdiction and personal jurisdiction over this action under Art. V, § 14 of the Missouri Constitution and § 506.500, RSMo.

23. Venue is proper in this Court pursuant to § 210.1271, RSMo.

24. This Court may grant injunctive relief pursuant to § 210.1271, RSMo.

Statutory Background

25. In 2021, the Missouri General Assembly passed House Bill Nos. 557 and 560 (collectively, “HB 557”), which enacted 16 new sections relating to the protection of children. H.B. 557 & 560, 101st Gen. Assem., 1 Reg. Sess. (Mo. 2021). Ex. B. Governor Parson signed the bill into law on July 14, 2021, and it became effective immediately. *Id.* (“Because immediate action is necessary to protect children, Section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.”).

26. HB 557 provides that covered residential care facilities otherwise exempt from obtaining an operating license must comply with certain requirements, including: (1) Notify the Department of Social Services (“DSS”) that they are operating in the state (§§ 210.1256-210.1263); (2) Pass fire, safety, health, and sanitary inspections (§ 210.1265); and (3) Have qualifying staff and residents over the age of 18 pass fingerprint background checks (§ 210.1263).

27. Additionally, HB 557 has an enforcement mechanism in § 210.1271. Section 210.1271, RSMo grants both the Attorney General’s Office and DSS authority to seek injunctive relief in Court to remove children from the facility or cease the facility’s operations. § 210.1271. The statute provides four grounds for the Attorney General’s Office or DSS to seek such relief. Relevant here is the fourth ground: “An immediate health or safety concern for the children at the residential care facility.” § 210.1271.1(4).

28. “Immediate” means “acting or being without the intervention of another object, cause, or agency” or “occurring, acting, or accomplished without loss of time.” Webster’s Third New International Dictionary (1966); *Bus. Aviation, LLC v. Dir. of Revenue*, 579 S.W.3d 212, 218 (Mo. banc 2019) (undefined statutory terms given dictionary definition). “Concern” means “a matter that engages a person’s attention, interest, or care” and “worry, solicitude, or anxiety.” Webster’s Third New International Dictionary (1966). By the plain meaning of “concern,” that word is likely less severe than words like “danger” or “risk.”

29. Some Missouri courts over the years have interpreted “immediate” or variations of that phrase. *Bateman v. Rinehart*, 391 S.W.3d 441, 451 (Mo. banc 2013) (“Commercial use cannot be considered “immediate” when the taxing authority admits that such use is “improbable” for more than a year.”); *State v. Bruner*, No. SD 33982, 2016 WL 4130831, at *4 (Mo. App. S.D. 2016) (holding that in the self-defense context, “immediate” means “instant, without the passage of time ... [t]he mere possibility that an event may happen in the future does not create an immediate

danger”); *Elliott v. Keith*, 32 Mo. App. 579, 580 (Mo. App. 1888) (“immediate” means “without intervention of time”).

Factual Allegations

30. DSS’s Children’s Division has determined, by a preponderance of the evidence, that some current and former Agapé employees perpetrated abuse or neglect at Agapé Boarding School. Some of those current and former Agapé employees have appealed the findings to the Child Abuse and Neglect Review Board.

31. One individual, Agapé Staff A, declined to appeal the findings by the September 6, 2022 appellate deadline, and the findings became final on September 7, 2022.

32. Once findings are final, the individual is placed on the Child Abuse/Neglect Central Registry as a perpetrator of child abuse or neglect.

33. On September 7, 2022, Agapé Staff A became listed on the Child Abuse/Neglect Central Registry as a perpetrator of child abuse. 13 CSR 35-31.025(3)(B).

34. On August 22, 2022, DSS obtained a roster of current Agapé employees pursuant to its authority under § 210.1264, RSMo. The roster included Agapé Staff A.

35. Missouri law prohibits individuals from working or being present at a residential care facility, or from living on the property of such residential care facility if they have substantiated findings of child abuse or neglect or appear on the Child Abuse/Neglect Central Registry. § 210.493, RSMo. (An applicant shall be “ineligible

for *employment or presence*” at a residential care facility if he is “listed as a perpetrator of child abuse and neglect under sections 210.109 to 210.183 or any other finding of child abuse or neglect based on any other state’s registry or database,” *id.* at § 210.493.11(4) (emphasis added)).

36. At 9:19 a.m. on September 7, 2022, Children’s Division sent an email and letter to Agapé Boarding School at its official email address notifying Agapé that Agapé Staff A was placed on the Child Abuse/Neglect Central Registry for a substantiated finding of physical abuse. A copy of the letter was also sent by mail. Such notification is consistent with Children’s Division’s normal practice of notifying a facility when a current employee has been found to have perpetrated abuse or neglect. As of the date of this filing, neither the Children’s Division nor the Department of Social Services have received a written response from Agapé.

37. On September 8, 2022, Agapé’s director Bryan Clemensen, reported that Agapé Staff A was fired “yesterday” (September 7, 2022), but still resides on the Agapé property in close proximity to children at Agapé.

38. After hearing Agapé’s report that it had fired Agapé Staff A on September 7, 2022, and that Agapé Staff A was still present on the property, on September 8, 2022, DSS obtained a roster of current Agapé employees, individuals with access to Agapé children, and adults who reside on the Agapé property. § 210.1264, RSMo.

39. Agapé Staff A was included on the September 8, 2022 roster that Agapé provided to DSS.

40. On September 8, 2022, Agapé Staff A, who is listed on the State's Child Abuse/Neglect Central Registry, was present at Agapé and had access to Agapé children.

41. The presence of such an individual at a residential care facility constitutes an "immediate health or safety concern" under § 210.1271. *See also* § 210.493, RSMo.

42. The September 8, 2022 roster also included other current Agapé employees who Children's Division determined by a preponderance of the evidence perpetrated abuse and neglect at Agapé Boarding School, but who requested an Administrative Appeal of the Children's Division's preliminary findings.

43. The presence of such individuals working at a residential care facility constitutes an "immediate health or safety concern" under § 210.1271.

44. The September 8, 2022 roster provided by Agapé also included additional information than the August 22, 2022 roster provided by Agapé. On both occasions, DSS made a similar request for information under § 210.1271. On August 22, 2022, Agapé only provided employee names. On September 8, 2022, Agapé provided a list with at least five more names, but did not distinguish any individual's status, such as who was an employee, adult resident, or volunteer with access to any children at the facility.

45. Agapé's withholding of information from the State on August 22, 2022 regarding who has access to the children at Agapé constitutes an "immediate health of safety concern" under § 210.1271.

46. The Attorney General’s Office and DSS have exposed other concerning allegations at Agapé that also constitute an “immediate health or safety concern” under § 210.1271.

47. On March 22, 2021, Governor Mike Parson directed the Attorney General’s Office to assist in an investigation of Agapé. Judy L. Thomas and Laura Bauer, *Missouri reform school investigation grows: Parson directs AG to investigate*, Kansas City Star (Mar. 23, 2021), available at: [tinyurl.com/ycys2zs3](https://www.tinyurl.com/ycys2zs3). Ex. C

48. Approximately four months later, in August 2021, Attorney General Eric Schmitt recommended criminal charges against 22 current and former employees of Agapé with 65 counts on behalf of 36 victims, including felonies for abuse of a child and tampering with a victim, and misdemeanors for endangering the welfare of a child and failure to report child abuse. Letter from Missouri Attorney General Eric S. Schmitt to Missouri Governor Michael Parson (Sept. 23, 2021). Ex. D.

49. The Attorney General’s Office was prevented from filing these charges against 21 of the 22 current and former employees of Agapé because the Cedar County prosecuting attorney retained jurisdiction and control over the cases.

50. In September 2021, the Cedar County prosecuting attorney filed criminal charges against five Agapé employees—far fewer than the number of charges recommended by the Attorney General. *Five Missouri boarding school employees charged with abuse*, AP (Sept. 28, 2021), available at: [tinyurl.com/2p8upxz5](https://www.tinyurl.com/2p8upxz5). Ex. E. One individual charged by the Cedar County

prosecuting attorney is currently employed by Agapé and was listed on the September 8, 2022 roster provided by Agapé.

51. For the 22nd current or former employee of Agapé, the circuit court appointed the Vernon County prosecuting attorney as a special prosecutor due to a conflict. The Vernon County prosecutor requested the Attorney General's assistance in prosecuting the case.

52. On December 29, 2021, the Vernon County prosecuting attorney and Attorney General Eric Schmitt announced eight felony charges had been filed against the 22nd current or former employee of Agapé, a doctor in Cedar County. The doctor no longer works at Agapé. Press Release, "Attorney General's Office, Special Prosecutor File Eight Felony Charges Against David Smock, Including First and Second Degree Statutory Sodomy," Missouri Attorney General's Office (Dec. 29, 2021), available at: [tinyurl.com/yxy5t6s7](https://www.tinyurl.com/yxy5t6s7). Ex. F.

53. According to a federal indictment unsealed on August 30, 2022, Julio Sandoval, former dean of students at Agapé Boarding School, allegedly handcuffed and forcibly transported a minor from California to Agapé in August 2021. Press Release, "Department of Justice, Arrests Made For Transportation of Fresno County Teen to School in Missouri," (Aug. 31, 2022), available at: [tinyurl.com/ycxpxvu2](https://www.tinyurl.com/ycxpxvu2).

54. There has been a long history of allegations of abuse and neglect at Agapé, and those allegations have been recently coming to public attention and DSS's attention. Many child abuse and neglect allegations take years to come to light; a

critical mass of allegations coming to light at the same time is sufficient to constitute an “immediate health or safety concern” under § 210.1271.

55. DSS alleges former Agapé students have suffered physical abuse through physical restraints, extreme workouts, long days of manual labor, food and water withheld as punishment, constant berating and mind games, and sexual abuse.

56. Former Agapé students, others close to the school, and at least one mental health professional have reported concerns to law enforcement and the state about possible abuse.

57. On information and belief, Cedar County Sheriff’s Department employs at least three people who work or previously worked at Agapé, including two full-time deputies. One deputy is a former Agapé student and is married to the daughter of Agapé founder James Clemensen. Clemensen’s granddaughter was a sheriff’s dispatcher in 2018 and 2019, and is married to the son of the doctor who previously provided medical care for Agapé students. Two deputies work off-duty for Safe, Sound Secure Youth Ministries, a company that parents can hire to transport their children to Agapé. Safe, Sound Secure Youth Ministries is owned by Julio Sandoval, former dean of students at Agapé, who has occasionally worked shifts at the county jail. Another deputy worked off-duty security for Agapé.

58. As of July 1, 2022, Agapé is no longer accredited by the Association for Christian Teachers in School and the National Council for Private School Accreditation, citing evidence that students at Agapé have been abused. Alviz-Gransee, *Agape Boarding School in Stockton loses accreditations amid sexual abuse*

investigations, Columbia Missourian (Jul. 18, 2022), available at: tinyurl.com/yzv7p785. Ex. G.

59. Agapé has failed over many years to stem the tide of abuse and neglect perpetrated at their school and ensure the health and safety of their students.

60. The culmination of all of these facts leads the Attorney General and the Department of Social Services to believe that Agapé Boarding School should be closed pursuant to § 210.1271. No other relief ensures the safety of the children residing at Agapé.

Count I – Request for Injunctive Relief

61. Petitioner incorporates by reference all preceding paragraphs.

62. On September 7, Missouri Department of Social Services (“DSS”) added a then-current Agapé staff member to the state’s Child Abuse/Neglect Central Registry (“Agapé Staff A”). DSS found, by a preponderance of the evidence, that Agapé Staff A committed child abuse at Agapé.

63. This was the first time that a current Agapé staff member was added to the state’s Child Abuse/Neglect Central Registry.

64. Although Agapé reports that it fired Agapé Staff A on September 7, 2022, an imminent threat of harm continues to exist because Agapé Staff A continues to live on the Agapé property in close proximity to children at Agapé.

65. Missouri law prohibits individuals from working or being present at a residential care facility if they have substantiated findings of child abuse or appear on the Child Abuse/Neglect Central Registry. § 210.493, RSMo. (An applicant shall

be ineligible for employment or presence at a residential care facility if he is “listed as a perpetrator of child abuse and neglect under sections 210.109 to 210.183 or any other finding of child abuse or neglect based on any other state’s registry or database,” *id.* at § 210.493.11(4).)

66. Agapé’s harboring of Agapé Staff A, an individual who is listed on the state’s Children Abuse/Neglect Central Registry, constitutes an “immediate health or safety concern” under § 210.1271.

67. Agapé employs and harbors other individuals who present an immediate health and safety concern for children residing at Agapé.

68. Agapé has withheld information from the State that presents an immediate health and safety concern for children residing at Agapé.

69. The Attorney General’s Office has uncovered evidence of criminal activity and DSS has uncovered evidence of child abuse and neglect at Agapé, which together also constitutes an “immediate health or safety concern” under § 210.1271.

70. Accordingly, Plaintiffs are entitled to injunctive relief pursuant to § 210.1271, RSMo, ceasing the operation of Agapé Boarding School, because the people of Missouri’s rights are threatened, an adequate remedy cannot be afforded by an action for damages, the legislative purpose in enacting these provisions has been frustrated by Defendant’s unlawful conduct, and Plaintiffs and the people of Missouri will be irreparably harmed in the absence of injunctive relief.

71. The Children’s Division certifies to the court that it has a suitable, temporary emergency placement for the children; it is contrary to the welfare of the

child to remain in the residential care facility; the Division believes that the parents or legal guardians of the children are not immediately available to take physical custody of the child within that time; and that the Division believes that there is no other temporary, suitable placement for the children.

Conclusion

WHEREFORE, Plaintiffs respectfully request that this Court:

- a. Cease the operation of Agapé Boarding School and provide for the appropriate removal of the children from Agapé Boarding School and placement in the custody of the parent or legal guardian or any other appropriate individual or entity in the discretion of the court;
- b. Refer the matter to the juvenile officer of Cedar County—or such other juvenile officers as needed due to the volume of children residing at Agapé Boarding School—for the appropriate proceedings under Chapter 211;
- c. Enter an order directing Agapé Boarding School to immediately produce to Children’s Division all records (medical, educational) and contact information for the children’s parents or legal guardians.
- d. Enter an order directing Agapé Boarding School to present all students to a Children’s Division worker at the Children’s Division’s request for an assessment of the child’s health, safety, and well-being, including medical and child advocacy center evaluations;

- e. To place the children at Agapé Boarding School in the temporary custody of the Children's Division until their legal guardian arrives or refuses to pick up the child, in which case the children would remain in the legal custody of the Children's Division;
- f. Enter a final judgment in Plaintiffs' favor on all Counts in this Petition for Injunctive Relief; and
- g. Grant such other and further relief as the Court deems just and proper under the circumstances to ensure the health and safety of the students at Agapé Boarding School.

Respectfully submitted,

ERIC S. SCHMITT

Missouri Attorney General

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Certificate of Service

I hereby certify that on September 9, 2022, the foregoing was filed through the Missouri Case.net e-filing system, which will send notice to all counsel of record.

/s/ Maddie McMillian Green
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