

Jaycee Dugard lawsuit seen as a long shot. What can it accomplish?

By Gloria Goodale

Jaycee Dugard is suing the US, alleging 'gross neglect' by federal officers in charge of supervising the parolee who abducted her. A spokeswoman for Jaycee Dugard says proceeds from the suit would go to her charity.

Dugard is suing the US for 'gross neglect' by federal officers in charge of supervising the parolee who abducted her. Legal analysts agree that the case is a long-shot.

Abduction and rape victim Jaycee Dugard's lawsuit against the US government, which challenges the principle that the government cannot be held responsible for the actions of federal officials, also raises the issue of violence against women and children.

Ms. Dugard was held for almost two decades, during which time she was repeatedly raped and gave birth to two children. Her lawsuit alleges "gross neglect" on the part of the federal parole officers in charge of supervising Phillip Garrido, the federal parolee who kidnapped her.

The case drew sensational headlines in 2009 when Dugard was discovered. Now 31, she was 11 years old when she was kidnapped from a South Lake Tahoe, Calif.,

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Beyond that, he says, “she cannot establish that better monitoring would have prevented her abduction.” No matter how sympathetic she may be as a plaintiff, he says, “the case should be dismissed without discovery.”

street by Mr. Garrido and his wife in 1991.

She was taken to a home where she spent the next 18 years captive in a backyard tent. She gave birth to two daughters fathered by Garrido, who has since been sent to prison. He had been granted parole in 1988 after serving 11 years in prison for

another kidnapping and rape.

Legal observers say Dugard's suit, which she filed Thursday morning in a San Francisco court seeking unspecified damages, is focusing a spotlight not only on her own case, but the larger issue of violence against women and children..

“Sunlight is the best disinfectant,” says Andrew Stoltmann, a Chicago-based attorney. “Ms. Dugard is likely filing the suit to draw attention to the incompetence of parole agents who allegedly failed to properly monitor Garrido, with the hopes of preventing future cases similar to hers,” he says.

According to a statement released Thursday by her spokeswoman, Nancy Seltzer, any award from the lawsuit would go to Dugard's private charity, the JAYC foundation, which assists families recovering from abduction and other trauma.



The three temporary tents where kidnap victim Jaycee Dugard lived during her years of captivity seen on, Aug. 31, 2009. Paul Sakuma/AP

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settlement through a state victims compensation fund after the California inspector general found that state corrections officials failed to properly supervise Garrido, whose parole case was handed over from federal officials to the state in 1999.

The US Department of Justice so far has no comment on Dugard's suit, according to spokesman Charles Miller, who notes, "we have not seen the papers yet."

There is general agreement among legal analysts, however, that her case is a long shot at best.

These cases are hard to win, says Detroit attorney Mary Massaron Ross, "because of the strong immunities in place to [shield] local, state and federal officials."

Somehow, it seems Jaycee raised two 'normal' daughters

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While the suit faces stiff obstacles, Villanova University law professor Michelle Dempsey says the case may be important on other grounds.

Courts in the US have been trending away from the principle that

government has an obligation to protect women and children against violence, she says.

But international legal trends have been headed in the opposite direction, calling it a basic human rights issue, Ms. Dempsey notes. She points to a recent decision that underlines this point in the case of a Colorado woman, Jessica Gonzalez, who sued the local police after her estranged husband kidnapped and killed her children.

Ms. Gonzalez pursued her case through the US Supreme Court, where she lost. But in August she won her petition to the Inter-American Commission on Human Rights, in which she claimed that the US was responsible for human rights violations resulting from the police inaction and the Supreme Court's decision.

Dempsey acknowledges that the Dugard case will be decided on US legal principles, but, she adds, "it is important to realize that courts all over the world are moving towards seeing the protection of women and children against violence as a basic human right."

At the same time, there is only so far courts can go in allowing victims legal redress against government officials, says Los Angeles attorney Jason Feldman, of Feldman and Wallach.

"It could potentially open the floodgates if everyone was allowed to second guess the decisions of police and other government officials every time they did their job," he says. ■