

7/16/95 Atlanta Journal-Constitution

Who's in charge of the children?

■ **The issue:** \$3 million lawsuit claims rights are usurped when public schools help kids get birth control without notifying parents.

By Don Melvin
STAFF WRITER

Toccoa — Sharon Earls was worried that her teenage stepdaughters were smoking cigarettes, but what she found in May when she searched their room was more shocking than a pack of Marlboros.

"She was horrified to find a bag of condoms," said her attorney, E.W. "Chip" Angell. "Not a few, but many."

That discovery prompted a \$3 million lawsuit by Earls and her husband, tow truck driver Waymon Earls, against the Stephens County school district, and opened a debate that Angell predicts will be waged across the nation in homes, courts and Congress.

"The question is: Do children belong to the state, or do they belong to the family?" he said. "The loot in this war, the booty if you will, is the next generation."

Angell advised the family not to talk to a reporter. He said the sisters, ages 14 and 15, told their parents they got the condoms with the help of the counselor at Stephens County Middle School — Ann Mills, the wife of Superintendent Ed Mills.

Ann Mills drove the girls to a local health clinic, where they were tested for AIDS and cervical cancer, and given a prescription for birth control pills, Angell said.

The parents were never notified and were told they cannot have the results of the tests, Angell said.

Phillip Hartley, an attorney for the school officials being sued, has filed a motion asking the court to require that the girls be represented independently to determine their interests, which, he said, may not coincide with those of their parents.

Ed Mills said his wife offered

Protection clause of the U.S. Constitution because it fails to provide similar rights to males.

The case also could clarify the scope of another Georgia statute. It is illegal for birth control devices to be distributed in Georgia public schools or for school officials to advise or influence students regarding birth control, said Elizabeth LaVack, a spokeswoman for the state Department of Education.

Glavin said school officials are trying to skirt the law by saying: "If we can't bring the condoms to the students, we'll bring the students to the condoms."

Glavin and Angell cast the issue as symptomatic of a national struggle between individual rights and the power of the state, but Hartley prefers a more basic approach.

"The school system is not interested in any kind of cause," he said. "We're not out to make any kind of political statement. We're not out to participate in any kind of public debate. We're simply trying to do what's best for the students."

The suit filed last month by the Earls — and by the daughters, as represented by the parents — alleges that school officials usurped the parents' rights and encouraged the children in activities the parents "deem abhorrent and wrong."

Hartley denied that school officials usurped parental rights, saying they sometimes have a responsibility to put students in touch with other agencies.

Ed Mills said school employees have given students rides to the clinic in the past. "I've checked every policy we have," he said. "And we've done everything by policy and by law."

He said his wife gave the girls no advice on birth control. "All we did," he said, "was provide a

Matt Glavin was head of Georgia Public Policy Foundation (Georgia's Heritage group) until he managed an unsuccessful campaign for Congress last year. Now he is at Southeastern Legal (Heritage's legal complement to the Public Policy). Last week representatives from SEL, Christian Coalition, Eagle Forum, United Parents, Family Research Council,

asked, on separate occasions, for rides to the clinic.

That doesn't matter, said Matthew Glavin, president of Southeastern Legal Foundation Inc., a conservative public interest law firm that is helping represent the Earls.

What matters, Glavin said, is that parents have a fundamental right to control the upbringing of their children.

The case will challenge a Georgia law giving females, regardless of age, the right to make their own birth control decisions — which is reminiscent of the successful earlier challenges of abortion laws as they relate to minors. Glavin's organization will argue that the law violates the Equal

RIGHTS

Opinion in Toccoa, a town of 8,300 residents about 10 miles from the South Carolina border, is divided — and strong.

"They shouldn't give out birth control," said Melanie Nunn, 23, as she cradled her 9-month-old daughter on her arm. "They should just teach the teenagers to be abstinent until marriage."

But Joyce Pitts, 18, a former student at the middle school, supported Ann Mills, who she said has been helping girls get birth control for a long time.

If girls need their parents' permission to get birth control, Pitts said, they will have sex without it.

"The question is: Do children belong to the state, or do they belong to the family?"

E.W. "CHIP" ANGELL,
attorney for Waymon and Sharon Earls

and others decided they would not support a parents' rights bill introduced last year and created by "politically incorrect people" like me and Lou Sonders and Nancy Belford — because it was "too long," "too complex." It would have addressed this problem. W