



Children's Law Center of Los Angeles

“DEPENDENCY LEGAL NEWS”

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NEW DEPENDENCY CASE LAW

JURISDICTION – PROPER VENUE, ADMISSION OF OUT-OF-COUNTY EVIDENCE

In re Hadley B. – ordered published Mar. 22, 2007, Fourth Dist., Div. Three

Docket No. G037558

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/G037558.DOC>

Fourteen-year-old Hadley was initially detained after he ran away from his father during a visit to Orange County and both parents refused to take custody of him. The petition alleged neglect, abandonment, and abuse of a sibling. The juvenile court released Hadley to his father, who lived in Santa Barbara County. Prior to the jurisdictional hearing, Hadley and his father continued to have conflicts and Hadley was hospitalized in Ventura County for making suicidal statements. The agency tried to file an amended petition adding an emotional abuse count and asked the court to detain Hadley from his father. However, the juvenile court refused, finding that Orange County was an inconvenient forum because the new allegations had occurred in either Santa Barbara or Ventura counties. At the jurisdictional hearing on the original petition, the juvenile court would not admit any evidence of Hadley's psychiatric hospitalization and ultimately dismissed the petition. That night, Hadley was hospitalized again after threatening to jump out of his father's car. The agency filed a new petition that included the prior allegations. A different judge detained Hadley from his father and set a jurisdictional hearing, but struck all of the allegations relating to events that occurred prior to dismissal of the original petition. The agency and the child sought judicial review of the orders. Reversed.

The appellate court held the juvenile court erred by refusing to allow the agency to file the amended petition that included the out-of-county evidence. The juvenile court must consider all circumstances that affect the child, regardless of where they take place. Welf. & Inst. Code § 327 governs venue in dependency proceedings, and Orange County was a proper venue to initiate proceedings. While § 375 allows for a change of venue where another county turns out to be the child's county of residence and a more convenient forum, the initial court must first take jurisdiction over the child before it can transfer the case. Piecemeal adjudication of dependency proceedings based on the county in which the events occurred is also inconsistent with protecting children at risk. Regarding the second petition, the juvenile court erred by refusing to consider the out-of-county evidence as well as the facts previously litigated in the original petition that was dismissed. Facts that support that a child is described by §

300 are cumulative. Although the facts may not support jurisdiction at one point in time, the same facts combined with new evidence can warrant jurisdiction at a later date. (CS)

RELATIVE PLACEMENT PREFERENCE DOES NOT APPLY TO PLACEMENT FOR ADOPTION

In re Lauren R. – filed Mar. 19, 2007, Fourth Dist., Div. Three
Docket No. G037590

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/G037590.DOC>

De facto parent, Amanda C., and child Lauren, filed an appeal from the juvenile court's order removing Lauren from Amanda's home and placing her for adoption by her maternal aunt. Lauren was placed with Amanda in June 2005. In July 2005, Lauren's maternal aunt who lived in Oregon requested placement and an ICPC was initiated. While Lauren visited her aunt pending the ICPC, she insisted she wanted Amanda to adopt her and not her aunt. At the trial to determine Lauren's placement, Lauren's therapist testified that Lauren felt like Amanda was a mom to her and wanted to live with her. The social worker testified that the aunt had an approved home study and would be a better placement while Amanda had an incomplete home study application and her adoption case was closed due to lack of follow through. Amanda testified that she sent back the home study packet and that the social worker never told her there was a problem with her paperwork. Applying the factors for a temporary relative placement pursuant to Welf. & Inst. Code § 361.3, the trial court found the aunt was the better placement. Reversed and remanded.

The appellate court found that the relative placement preference did not apply to the placement order because no new placement was necessary and because there is no relative preference for adoption. Because the placement order was for adoption, the appellate court found the caretaker preference pursuant to § 366.26(k) was applicable. Disagreeing with the aunt's argument that § 366.26(k) applies only after termination of parental rights, the appellate court found that the circumstance that triggers the application of the caretaker preference is the intent to place the child for adoption, not necessarily the termination of parental rights. The appellate court further contrasted the code sections by explaining that § 361.3 assures interested relatives they have preference when a child is taken from her parents' custody and must be placed in a temporary home pending reunification, whereas when reunification fails, § 366.26 (k) assures the caretaker that has cared for the child that they have preference to be considered for adoption. The appellate court reversed and remanded with directions for the agency to determine whether Amanda qualifies for the caretaker preference under § 366.26(k). If the agency determined that Amanda did not qualify, the juvenile court was directed to review the agency's determination using its independent judgment. (JC)

OTHER LEGAL DEVELOPMENTS

New or Revised Los Angeles County Department of Children and Family Services Policies of Significance –

Procedural Guides:

70-563.10 (REV) Juvenile Automated Index (JAI) Clearance

Link to procedure: <http://dcfs.co.la.ca.us/policy/hndbook%20cws/0070/007056310JAIV0307.doc>

This revised procedural guide informs CSWs of procedures to follow when assessing the home of a prospective relative caregiver or non-relative extended family member and how to read a JAI printout.

(JC)

80-502.10 (REV) Initial Case Plan

Link to procedure: <http://dcfs.co.la.ca.us/policy/hndbook%20cws/0080/008050210v0307.doc>

This revised procedural guide advises CSWs to include in the case plan that a parent will agree to submit to a Live-Scan clearance in order to assist the court in ascertaining the suitability of returning the child to the parent at a Status Review Hearing. This requirement goes into effect on July 1, 2007.

(JC)

100-510.61 (REV) Responsibilities For Placement: Foster Child's Needs and Case Plan Summary

Link to procedure: <http://dcfs.co.la.ca.us/policy/hndbook%20cws/0100/010051061v0307.doc>

This procedural guide informs SCSWs and CSWs of their responsibilities when completing the placement agreement, DCFS 709 Foster Child's Needs and Case Plan Summary, and child's health and education passport. (JC)

100-252.30 (REV) Placement Packet and Health & Education Passport Binder

Link to procedure:

<http://dcfs.co.la.ca.us/policy/hndbook%20cws/0100/010052530PlacementPacketv0307.doc>

This revised procedural guide includes new Placement Packet forms and instruction for the CSW for delivery, use and maintenance of the documents contained in or related to the Health & Education Passport Binder. (JC)

300-318.05 Obtaining Restraining Orders

Link to procedure:

<http://dcfs.co.la.ca.us/policy/hndbook%20cws/0300/03003180RestreainingOrdersV0307.doc>

This revised procedural guide informs CSWs of procedures to follow when requesting a protective order in lieu of filing a petition and when dependency intervention becomes necessary prior to the expiration of the temporary restraining order or a restraining order is necessary to protect the child who is already under dependency court jurisdiction. (JC)

300-503.98 (REV) Continuance Requests

Link to procedure:

<http://dcfs.co.la.ca.us/policy/hndbook%20cws/0300/030050398ContReqV0307.doc>

This revised procedural guide informs CSWs of procedures to follow when requesting a continuance. (JC)

600-505.10 (REV) Assessment Of And Services For Children With Special Health Care Needs

Link to procedure: <http://dcfs.co.la.ca.us/policy/hndbook%20cws/0600/060050510V0307.doc>

This revised procedural guide updates terminology related to special health care needs. i.e., terms such as “medically fragile” and “Bates eligible” have been changed to “children with special health care needs” to be consistent with terms used in legislation. It also clarifies current eligibility criteria, assessment procedures, and transportation, placement, and case management requirements. (JC)

For Your Information (FYIs):

07-12 Kinship Guardianship Assistance Payment (KIN-GAP) Program Enhancements

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2007/FYI0712EnhancedKinGAP.doc>

This FYI informs staff of new enhanced benefits available under the Kin-GAP program, which was established with the passage of Assembly Bill 1808. Pursuant to All County Letter 07-13, Kinship Guardianship Assistance Payment (KINGAP) Program Enhancements, the enhanced Kin-GAP benefits will apply retroactively to the October 1, 2006 implementation date. The changes to the Kin-GAP program are as follows: the Program has been extended to allow Kin-GAP benefits to be provided to probation youth in foster care and under the supervision of the juvenile delinquency court; the Program permits Special Care Increments (SCI) payments (i.e., the D or F rate) as part of the Kin-GAP payment if the child was receiving AFDC-FC SCI payments **in the month before the month that Kin-GAP benefits began**; all Kin-GAP recipients are now entitled to the \$100 annual state supplemental clothing allowance; and children in receipt of Kin-GAP are now eligible to receive a Back-to-School Clothing Allowance. (JC)