



Children's Law Center of Los Angeles

"DEPENDENCY LEGAL NEWS"

Vol. 2, No. 19 April 10, 2007

Issued by the Children's Law Center of Los Angeles the second and fourth Tuesday of each month

Written by: Martha Matthews (MM), Cameryn Schmidt (CS), Jenny Cheung (JC)

© 2006 by Children's Law Center of Los Angeles ("CLC"). All rights reserved. No part of this newsletter, except those which constitute public records, may be reproduced in any form or by any electronic or mechanical means, including information storage and retrieval systems, without permission in writing from CLC. Cases reported may not be final. Case history should be checked before relying on a case. Cases and other material reported are intended for educational purposes only and should not be considered legal advice.

For more information on Children's Law Center, please visit our website at www.clcla.org.

NEW DEPENDENCY CASE LAW

ATTORNEY SANCTIONS – CCP § 128.7

In re Mark B. – filed Mar. 29, 2007, Third Dist.

Docket No. C049885

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/C049885.DOC>

Attorney Julie Lynn Wolff appealed a juvenile court referee's order sanctioning her \$1,000 plus attorney's fees for filing a frivolous conflict motion in a dependency case. Wolfe was privately retained by mother mid-proceedings. The mother had previously been represented by an attorney appointed under the Sacramento County juvenile court's system for appointing counsel for indigent parents in dependency cases. There were several fathers on the case who were represented by other attorneys appointed through this system. Under the system, private attorney Dale Wilson administered two firms and two conflict panels, each of which was ethically walled off from Wilson's own private practice and from each other. Wolfe alleged that the entities were Wilson's alter egos and that all of the attorneys on the case had conflicts of interest. The referee denied Wolff's conflict motion and granted Wilson's motion for sanctions against Wolff under § 128.7.

Affirmed. The court of appeal held that the juvenile court, including a juvenile court referee, may impose sanctions in a dependency case under Code of Civ. Proc. § 128.7. Frivolous filings are especially problematic in dependency proceedings, which are supposed to be as informal and nonadversarial as possible, and the juvenile court should be able to punish such conduct. (CS)

INCARCERATED PARENT; DENIAL OF REUNIFICATION SERVICES

In re Kevin N. – filed Mar. 27, 2007, Fourth Dist., Div. Three

Docket No. G037601

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/G037601.DOC>

Incarcerated father appealed denial of reunification services. The dependency petition alleged that mother's boyfriend sexually abused Katie and a younger sister, and that father was unable to protect Kevin and Katie because he was incarcerated. The disposition hearing was held in August 2006, and father was eligible for parole in October 2007. The trial court found that only six months of

reunification services were authorized under Welf. & Inst. Code § 361.5(a)(3), and that it would be futile to provide services because the father could not have the children back while he was in custody.

Reversed. The appellate court found that the trial court misread the law and stated that the trial court is not *required* to limit services to six months when one member of a sibling set is under three years old. Services *may* be limited to six months, and the limitation *may* apply to *some* of the siblings or to *all* of them. In addition, the appellate court stated that the trial court failed to make a fact finding as to keeping the sibling group together or not. Further, the appellate court found that the trial court failed to consider the question of whether providing services would be detrimental to the children, a determination that is required by § 361.5(e)(1). Reunification services must be offered to a incarcerated parent unless the juvenile court finds services would be detrimental to the child. (JC)

UCCJEA

In re S.W. – filed Mar. 28, 2007, Fifth Dist.

Docket No. F051032

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/F051032.DOC>

Mother appealed from the termination of her parental rights alleging that the juvenile court lacked subject matter jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA). The mother and children were from Nebraska, where the mother had been receiving voluntary family maintenance services. Several months before Madera County initiated dependency proceedings, the mother came to California to be with her boyfriend. Mother and her boyfriend slept in a van parked in front of the boyfriend's mother's house, while mother's two children slept inside the house. The van was filthy and the mother admitted to heroin use and domestic violence. The children were detained in foster care. The mother failed at reunification. At the contested Welf. & Inst. Code § 366.26 hearing, the mother's counsel objected to jurisdiction, arguing that at the time the proceedings began, the mother had only been in California for a few months, did not have a home in California, and had told the social worker she wanted to return to Nebraska. The court rejected mother's argument and terminated parental rights.

Affirmed. According to the appellate court, the evidence showed that the mother and children were living in California, not just visiting, at the time dependency proceedings were initiated. The fact that the mother was living in a van and not a house did not show that her residence was somewhere other than California. Despite opportunities to leave, she had stayed in California. Further, the mother had applied for welfare in California. Thus, Nebraska was not the children's home state and did not have subject matter jurisdiction under Fam. Code § 3421(a)(1). The court also held that the mother had waived her argument that California should have declined jurisdiction on inconvenient forum grounds under Fam. Code § 3427 by failing to raise it in the juvenile court. (CS)

OTHER LEGAL DEVELOPMENTS

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

Procedural Guides:

50-501.15 (REV) The Cross-Reporting Responsibilities When a Report of New Allegations is Received at the Child Protection Hotline

Link to procedure: <http://dcfs.co.la.ca.us/policy/hndbook%20cws/0050/005050115V0307.doc>

This revised procedural guide informs SCSWs and CSWs of their responsibilities when cross-reporting reports of new allegations received at the Child Protection Hotline. In addition, Penal Code section 11166(j) is included to explain the requirement of such reporting. (JC)

600-518.31 (REV) Drug-Endangered Children (DEC) Program

Link to procedure: <http://dcfs.co.la.ca.us/policy/hndbook%20cws/0600/060051831V0407.doc>

This revised procedural guide informs CSWs of procedures to follow when a DEC referral is received from the Child Protection Hotline. (JC)

For Your Information (FYIs):

07-13 Annual \$100 Supplemental Clothing Allowance

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2007/FYI0713AnnualSupplementalClothing.doc>

This FYI advises staff that the \$100 supplemental clothing allowance will be issued on April 16, 2007. This allowance will be issued to all foster family homes, relative caregivers and non-relative extended family member caregivers (including Kin-GAP guardians) and to foster family agencies. Group homes are excluded. (JC)