



Children's Law Center of Los Angeles

"DEPENDENCY LEGAL NEWS"

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NEW DEPENDENCY CASE LAW

VISITATION

In re Hunter S. – filed Sept. 18, 2006, Second Dist., Div. Eight

Docket No. B188248

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/B188248.DOC>

Mother appealed from orders terminating her parental rights and denying her Welf. & Inst. Code § 388 petition seeking reinstatement of family reunification services due to the court's failure to enforce visitation orders.

Hunter was detained in 2001 at age 5 due to domestic violence between mother and father, and placed with maternal grandmother. Mother complied with case plan and he was returned to her. Hunter was redetained because of mother's arrest and incarceration, but mother and child stayed in close contact. Then Hunter was moved from maternal grandmother to paternal grandmother, who was eventually appointed as his legal guardian. Mother completed her prison term and began living in rehabilitation center. At age seven, Hunter began refusing to visit and correspond with mother. Over the next two years, mother remained sober, employed and stable, and kept trying to contact and visit her son; mother's counsel repeatedly informed the court that she was not receiving visitation, because of her son's purported refusal to see her. The court never made a finding that visitation would be detrimental to Hunter, but took no effective steps to enforce the visitation order and stated that the court could not force the child to visit. At the §366.26 hearing, the court found that the § 366.26(c)(1)(A) exception did not apply, and terminated mother's parental rights, and also denied her § 388 petition.

Reversed. The juvenile court must order visitation unless it finds that visitation would be detrimental to the child, and cannot delegate discretion over whether the visits occur to the child, child's therapist, or any other party. By failing to enforce its visitation order, and denying the § 388 petition, the court denied mother any chance to prove that the § 366.26(c)(1)(A) exception applied. However, given the passage of time and Hunter's consistent refusal to visit, at the new § 388 hearing on remand the court may further consider whether visits would be detrimental to Hunter. (MM)

OTHER LEGAL DEVELOPMENTS

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

Procedural Guides:

For Your Information (FYIs):

06-51 WIC 388 Petitions

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2006/FYI0651WIC388Petitions.doc>

This FYI reminds CSWs of proper procedures for submitting WIC 388 petitions to the Court. (JC)

06-52 Obtaining Searches on the Parent Locator Syst

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2006/FYI0653ParentLocator.doc>

This FYI updates CSWs of the Parent Locator Clerk's new location and informs CSWs of how to obtain extensive search results from the Federal Parent Locator. (JC)

06-53 Partnering With all Relevant Stakeholders to Achieve Timely Permanency for Children in Out-of-Home Care

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2006/FYI0652PartneringAchievePermanency.doc>

This FYI reminds CSWs that the out-of-home care providers (i.e. FFA's, group homes, medical and mental health providers) and caregivers are significant parties to discussions about permanency for children in placement and should be invited and encouraged to participate in discussions about permanency. (JC)

Procedural Guides:

0050-504.05 (REV) Referral Assignment Criteria

Link to procedure:

<http://dcfs.co.la.ca.us/policy/hndbook%20cws/0050/005050405RefferralAsignmentCriteriaV0906.doc>

This procedural guide has been revised to clarify assignment criteria for a child who has a sibling who already has an open case. (JC)

0070-547.11 (REV) Timeframes For Responses to Referrals

Link to procedure: <http://dcfs.co.la.ca.us/policy/hndbook%20cws/0070/007054711V0906.doc>

This revised procedural guide informs CSWs of required response times when assigned a new referral. (JC)

100-520.50 (REV) Assessment Of A Potential Caregiver's Ability To Meet A Child's Needs

Link to procedure: <http://dcfs.co.la.ca.us/policy/hndbook%20cws/0100/010052050V0906.doc>

This revised procedural guide informs CSWs of general factors that must be considered in determining whether there is a good child-caregiver match. (JC)

300-306.27 (REV) Out-Of-County Personal Service

Link to procedure: <http://dcfs.co.la.ca.us/policy/hndbook%20cws/0300/030030627V0906.doc>

This revised procedural guide informs CSWs of mechanisms by which parents who reside out-of-county may be personally served by a party other than the CSW. (JC)

700-504.20 (REV) Referring Dependent Children For Special Education

Link to procedure: <http://dcfs.co.la.ca.us/policy/hndbook%20cws/0700/070050420V0906.doc>

This revised procedural guide informs CSWs of legislation affecting children with special education needs. (JC)

700-507.10 (REV) Appointment of Responsible Adult or Educational Surrogate Parent for the Purpose of Making Educational Decisions

Link to procedure: <http://dcfs.co.la.ca.us/policy/hndbook%20cws/0700/070050710V0906.doc>

This procedural guide has been revised to reflect legislation which mandates the Court to appoint a Responsible Adult to make educational decisions when limiting the educational rights of parents/guardians. (JC)

1000-503.50 (REV) Emergency Response Command Post (ERCP): Closing a Disposing of and closing a Referral

Link to procedure: <http://dcfs.co.la.ca.us/policy/hndbook%20cws/1000/100050350V0906.doc>

This revised procedural guide advises CSWs that all allegations should be investigated thoroughly before closing a referral and that all face-to-face contacts with the principal parties need to be completed and documented in CWS/CMS. (JC)