



# Children's Law Center of Los Angeles

## “DEPENDENCY LEGAL NEWS”

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### **FAMILY REUNIFICATION SERVICES - TERMINATION**

*In re Derrick S.*,--filed October 25, 2007, First Dist., Div. 2

Docket No. A116871

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/A116871.DOC>

Minor appealed from the trial court's denial of his motion to have mother's family reunification services terminated. Minor filed a brief at the six-month review hearing asking that the court terminate reunification services, based on fact that mother failed to comply with reunification plan, and minor was stable in his foster placement and bonded with the members of his foster family. Mother's counsel argued that Court needed to give mother her “full 12 months.” The trial court granted mother's request for additional time and scheduled a 12 month review, on the grounds that it had no discretion to terminate FR services prior to the 12 month review. The trial court held that it had no discretion to terminate FR services prior to the twelve month period referred to in 361.5(a)(1).

Reversed. Relying on *In re Arynana C.* (2005) 132 Cal.App.4<sup>th</sup> 1234, the Court of Appeal stated that with respect to a dependent minor under the age of three, a juvenile court has discretion to terminate reunification services at any point after ordering them. The appellate court extended the reasoning of *Arynana C.* to cases where the child is over the age of three. The 12 month period referred to in 361.5(a)(1) is a maximum period, not a required period. The Court of Appeal did, however, emphasize that the decision to terminate services prior to 12 months will be infrequent, and occur only in those cases where the parent has already been offered reunification services, thus giving the juvenile court a basis for evaluating whether additional services will be of use. (PB)

## **LIFE SUPPORT, TERMINATION OF**

*J.N. v. Superior Court* – filed Oct. 26, 2007, Fourth Dist., Div. 1

Docket No. D051802

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/D051802.DOC>

Eleven-month-old Cyrus N. was detained due to massive brain injury allegedly inflicted by father. After the detention hearing, Cyrus' doctors recommended removal of a breathing tube and issuance of a "Do not Attempt Resuscitation" [DNAR] order in the event that he was unable to breathe on his own. The parents objected. After a hearing, the juvenile court issued these orders, and father filed a writ petition.

Writ granted in part. Once a child is declared a dependent, the juvenile court has the authority to make all medical treatment decisions, including DNAR orders, under WIC 362. Prior to the jurisdictional hearing, the court's authority is limited to ordering medical treatment necessary to improve, sustain or preserve a child's medical condition, under WIC 369. Thus, the court had the authority to order removal of the breathing tube, because there was evidence that it was no longer necessary and was causing complications and pain. But the court did not have the authority to issue an order, over the parents' objections, that would lead to Cyrus' death. On remand, if the dependency petition is sustained, then the court should hold a full evidentiary hearing, including live testimony from medical experts, on the DNAR issue, and apply the criteria listed in In re Christopher I. (2003), 106 Cal.App.4<sup>th</sup> 533, 551. (MM)

## **STANDING**

*In re D.S.*—filed October 31, 2007, Third Dist.

Docket No. C055069

Link to Case: <http://www.courtinfo.ca.gov/opinions/documents/C055069.DOC>

The trial court denied as untimely a mother's 388 petition to modify an order terminating parental rights. Father appealed, contending that his due process rights were denied when the court denied mother's petition. Affirmed. The Court of Appeal found that in order to have standing, a party must show that his own personal rights are affected by the ruling. It is not sufficient to argue the minor's best interests as a basis of standing. (PB)

## **SIBLING STATUS -- WIC § 388(b)**

*In re Miguel A.*—filed October 24, 2007, Fourth Dist., Div. 1

Docket No. D050694

Link to Case: <http://www.courtinfo.ca.gov/opinions/documents/D050694.DOC>

In October 2002, mother gave birth to Jose. In January 2004 her parental rights were terminated. In June 2004, mother gave birth to Miguel. Miguel was declared a dependant and eventually returned to his mother's custody with family maintenance services ordered. Miguel's attorney filed a 388 petition, seeking sibling visitation. The trial court denied the petition on the grounds that mother's parental rights were terminated before Miguel was born, and minors are not siblings if they did not concurrently share a common parent.

Reversed. Under WIC § 388(b), the petitioner may establish a sibling relationship by "blood, adoption or affinity through a common legal or biological parent." It is not a prerequisite of Miguel's sibling relationship that he and Jose concurrently share a common parent. When a court enters an order terminating parental rights, the relationship between parent and child ceases to exist; however, the order terminating parental rights has no effect on the relationships between the child and other biological relatives. (PB)

## **NON-DEPENDENCY CASES OF INTEREST**

### **DOMESTIC VIOLENCE RESTRAINING ORDERS**

*Gonzalez v. Munoz* – filed Oct. 24, 2007, Second Dist., Div. Seven

Docket No. B197860

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/B197860/DOC>

Maria Gonzalez applied for a DVPA restraining order to protect herself and her three-year-old daughter against Maurelio Munoz. The petition alleged that Munoz had assaulted both her and the child, and threatened to take away the child. The family court, however, granted only a one-year stay-away order, refused to make any orders concerning custody, visitation or child support, and instructed the parties to file a paternity action to resolve these issues. Gonzalez appealed. Reversed. The DVPA explicitly authorizes family courts to make findings regarding paternity and orders regarding custody, visitation, and child support as part of a restraining order hearing. (MM).

## **JURISDICTION AND VENUE**

*Adoption of Lauren D.* – filed Oct. 26, 2007, Third Dist.

Docket No. C054705

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/C054705.DOC>

Father and mother divorced, and child custody orders were entered by Yolo County Court. Several years later mother and stepfather filed petition to terminate father's parental rights so that stepfather could adopt the children, in Sacramento County court. After a trial the Sacramento County court granted the termination of parental rights and adoption. Father appealed. Reversed for lack of jurisdiction. The first court to exercise jurisdiction over a child custody case has exclusive and continuing jurisdiction. Even if venue would have been proper in either county in the first instance, once the case was filed, Yolo County had exclusive jurisdiction. The mother should either have filed her termination of parental rights and adoption petition in Yolo County, or filed a motion for change of venue. (MM)

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

### **Procedural Guides:**

E020-0510 (REV) Eligibility Determination for Financial Participation

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20FCE/E020/E0200510V1007.doc>

This procedural guide was revised to update its format, reference revised policies, and use updated staff titles and program terminology in regards to funding for foster children. (SA)

0300-306.75 (REV) Due Diligence

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0300/030030675V1007.doc>

This procedural guide has been revised to reflect the current practice regarding obtaining birth certificates and to update the list of due diligence searches by adding the new statewide child support system to replace the current County Child Support Department system. (SA)

300-506.06 (REV) Conversations with County Counsel

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0300/030050606v1007.doc>

This procedural guide has been revised to reflect current practice for CSWs to communicate with County Counsel, including discussions about confidential information and obtaining legal advice. (SA)

300-503.19 (REV) Notifying The Court of A Parent's Relinquishment

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0300/030050319v1007.doc>

This procedural guide has been updated to reflect the current process and timeline for notifying the court of a parent's relinquishment of his/her child to DCFS for adoption. (SA)

100-535.30 (REV) Youth Development: Services For Transition Age Youth

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0100/010053530v1007.doc>

This procedural guide cancels Procedural Guide 0100-535.12 Early Start to Emancipation Preparation (ESTEP), includes the name change of the "Independent Living Program" (ILP) to "Youth Development Services for Transition Age Youth," and adds Early Youth Development Services. It has also been revised to include a new referral protocol for ILP services, educational assessments, tutoring services, and Vocational Skill Center Classes. (SA)

200-511.10 (REV) Adoption Assistance Program (AAP) Reassessment Procedures

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0200/020051110v1007.doc>

This procedural guide was reformatted and has been revised to include updated addresses for sending the various AAP forms and includes information about when and how to reassess adoption payments. (SA)

299-508.25 (REV) Revoking A Relinquishment

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0200/020050825v1007.doc>

This procedural guide has been formatted and updated to reflect the current practice for CSWs to follow when a parent requests to revoke his/her relinquishment of his/her child. (SA)

200-508.30 (REV) Filing the Relinquishment Document

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0200/020050830V1007.doc>

This procedural guide has been revised to reflect the law and current practice for filing relinquishment paperwork with the California Department of Social Services. (SA)

200-508.35 Rescinding A Relinquishment

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0200/020050835v1007.doc>

This procedural guide, regarding when a relinquishment may be rescinded once the relinquishment has been made final, was updated with minor non-substantive changes such as fax numbers and references to other procedural guides. (SA)

300-507.10 (REV) Cases Where A Writ Petition Or Appeal Has Been Filed:  
Communication With County Counsel

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0300/030050710v1007.doc>

This procedural guide has been revised to reflect current practice for CSWs to communicate with County Counsel in regard to filing writ petitions. (SA)

200-509.40 (Rev) Terminating An Adoptive Placement

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0200/020050940v1007.doc>

This procedural guide was revised to add procedures/terminology related to Concurrent Planning Redesign (CPR) and to address the duties of the Adoption and Permanency Resources Division staff and the case carrying CSW when an adoptive placement has failed. (SA)

200-509.36 (REV) Supervision of Fost-Adopt And Adoptive Placements

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0200/020050936v1107.doc>

This procedural guide was revised a second time to eliminate the requirement that an ARA must review and approve the DCFS/A 137 form that an Adoption CSW has to complete to document contact with prospective adoptive parents. (SA)

**FYIs:**

07-35 Presenting Criminal History To the Court (Adoption Home Study)

Link to FYI:

<http://dcfs.co.la.ca.us/Policy/FYI/2007/FYI0735CriminalHistAdptHoomeStudy.doc>

This FYI outlines the format for presenting an adoptive applicant's criminal history to the court for the applicant's home study. (SA)

07-32 Documenting Regional Center Services In CWS/CMS

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2007/FYI0734RegionalCenter.doc>

This FYI explains the steps for documenting when a child is currently receiving or previously received Regional Center Services. (SA)

07-33 On-Line Access To The California Department of Child Support Services Web Site

Link to FYI:

<http://dcfs.co.la.ca.us/Policy/FYI/2007/FYI0733AccessChildSupportSystem.doc>

This FYI alerts CSWs that they can now access the Statewide Child Support Services website to assist in due diligence efforts to find missing/absent parents and to verify employment/income for eligibility determination purposes. (SA)