



Children's Law Center of Los Angeles

“DEPENDENCY LEGAL NEWS”

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NEW DEPENDENCY CASE LAW

GUARDIAN AD LITEM

In re James F. - filed January 17, 2008, Supreme Court

Docket No. S150316

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/S150316.DOC>

Trial court appointed father a guardian ad litem based on his extensive history of severe mental illness and fact that his parents had previously been appointed conservators over his person. However, trial court neglected to follow correct procedures for appointing a GAL, including advising father of the purpose and consequences of the appointment. Trial court terminated father's parental rights, and father appealed. Court of Appeal reversed, holding that the procedural errors in appointment of guardian ad litem constituted “structural error” requiring automatic reversal, precluding a harmless error analysis.

Reversed. Although parties all agreed that the appointment of guardian ad litem failed to comport with requirements of due process, the error was subject to harmless error analysis. The evidence in the record indicated that father was incompetent and in need of the guardian ad litem at the time the appointment was made. Moreover, the result achieved was correct, and therefore just. (PB)

POST-JUDGMENT EVIDENCE

In re James W. V. - filed January 17, 2008, Second Dist., Div. 3

Docket No. B203056

Link to case: <http://www.courtinfo.ca.gov/opinions/nonpub/B203056.DOC>

County agency filed a dependency petition with respect to James W., half-sibling of Kayla S., who died a non-accidental death while in the care of mother and father. At the detention hearing, James W. was released to paternal grandmother over the objection of county agency, which was concerned that parents would have unlimited access to the child. Agency filed a writ petition requesting reversal of placement order, and Court of Appeal issued a stay of trial court's placement order pending its decision on the writ petition. While petition was pending, county agency filed additional information which updated the appellate court with respect to the proceedings in the juvenile court. Parents opposed writ petition, and also objected to filing of updated information.

Reversed. Trial court abused its discretion in ordering placement with the paternal grandmother since evidence existed that paternal grandmother intended to conceal facts from the social workers, and the gravity of the danger to infant far outweighed any benefit of the placement. Further, it was not inappropriate for county agency to advise court of the status of the case in order to prevent the issuance of an unnecessary writ of mandate. Because the court of appeal had previously issued a stay, it was helpful for court to be aware of issues arising after the issuance of stay. (PB)

REASONABLE SERVICES; PLACEMENT

In re Lauren Z.- filed January 11, 2008, Second Dist., Div. 1

Docket No. B197391

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/B197391.DOC>

The court detained Lauren from mother at nine months, placed her in a pre-adoptive home, and ordered an ICPC investigation on mother's sister, Fanny, in Florida. The court terminated reunification services at the WIC 366.21(e) hearing and subsequently terminated parental rights designating the foster parents as prospective adoptive parents. Because of problems with licensing with Florida, Lauren had been with her foster parents for nine months by the time Fanny's home study was approved. Mother appealed, arguing that because she received inadequate reunification services, the order terminating parental rights should be reversed and Lauren should be placed with Fanny. She also asserts that the juvenile court abused its discretion when it refused to place Lauren with Fanny.

Affirmed. Not only did mother waive issue of inadequate reunification services by failing to object when the juvenile court terminated services, her argument failed on its merits. Despite mother's drug problems and three-year incarceration in Florida, the social worker tracked her down, wrote to her and spoke to her by telephone to explain the types of programs she could search for in prison, and encouraged her to stay in touch by telephone. Because mother had placed herself out of reach of any meaningful services DCFS could have provided, there was nothing more the social worker could do. Further, the juvenile court did not abuse its discretion when it did not place Lauren with Fanny because Lauren is almost three years old, has spend all but the first nine months of her life with her foster parents, is bonded with them,

and has never met Fanny. Thus, it is in her best interest to be adopted by her foster parents.
(SA)

TERMINATION ORDER

In Re Elizabeth M. - filed January 16, 2008, Fourth Dist., Div. Three
Docket No. G038729

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/G038729.DOC>

Father appealed from a judgment terminating jurisdiction arguing the juvenile court denied him due process by depriving him of a contested hearing on termination and erred by issuing an exit order based solely upon a stipulation of questionable validity. After Elizabeth was detained, father was granted twice-monthly visitation while incarcerated in Orange County and father interacted with her appropriately during the visits. When father was incarcerated at Wasco State Prison, his visits were reduced to once per month because the long travel to prison would be potentially difficult for Elizabeth. Father and Elizabeth continued to enjoy their visits together and Elizabeth was not affected by the 7-hour car ride. At the 18-month review hearing, all counsel signed a stipulation agreeing to Elizabeth remaining in the mother's care and father's monthly monitored visitation to continue. The original proposal, however, was subsequently interlineated in a different handwriting to reflect that father be allowed visitation with Elizabeth only once every two months, "weather permitting." The interlineations were not initialed by any counsel and the juvenile court terminated jurisdiction with the attached custody orders.

Reversed. The appellate court first found that the father was not denied due process because the court scheduled a hearing and father was given both notice and an opportunity to attend and be heard on the issue of termination. On the other hand, the appellate court found the juvenile court's order reducing father's visitation was made without notice, was unsupported by any evidence, and was made in error. Father was explicitly assured there would be no reduction in his visitation without a formal motion and supporting evidence. In addition, the altered language in the visitation provision was not signed off by any counsel and was "suspicious on its face" when considered in light of the undisputed evidence that father's visits had been positive. The appellate court concluded the juvenile court's order reducing father's visits cannot be sustained on the basis of either the evidence before the court or the purported stipulation presented by counsel. (JC)

OTHER LEGAL DEVELOPMENTS

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

For Your Information (FYIs):

08-02 Fraud Prevention and Awareness

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2008/FYI0802ReporingFraud.doc>

This FYI advises staff that employees can contact the LA County “Welfare Fraud Prevention & Investigations/Central Fraud Reporting Hotline” at 800-349-9970 and/or the “WeTip Hotline” at 800-873-7283 or 800-782-7463 to report fraud against LA County. (SA)

08-03 Update on New ICWA Forms

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2008/FYI0803ICWAFormsUpdate.doc>

This FYI advises staff that several new ICWA forms are available on LA Kids in the forms section and on DCFS’ database under LA County specific templates. (SA)

08-04 Searching And Entering Education Provider (School) Information

Link to FYI:
<http://dcfs.co.la.ca.us/Policy/FYI/2008/FYI0804SearchingEnteringEdProviderInfo.doc>

This FYI advises staff that changes were made to DCFS’ database to make it easier to enter a child’s school into the database. (SA)

08-06 Cash Donations To The Department of Children And Family Services

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2008/FYI0806CashDonationstoDCFS.doc>

This FYI advises staff that all cash donations (i.e, checks, cashier’s checks, and money orders) on behalf of DCFS should be made payable to the “Los Angeles County Department of Children and Family Services” or “DCFS.” (SA)

Procedural Guides:

E020-0510 (REV) Eligibility Determination for Financial Participation

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20FCE/E020/E0200510v0108.doc>

This procedural guide has been updated to inform CSWs that: (1) they must check the child abuse and neglect registry of any state in which a prospective caregiver or other adult in the home has resided in the past five years, and (2) pending clearance, a child may be placed in a relative or non relative's home as a temporary/emergency placement. (SA)

0050-503.75 (REV) Child Protection Hotline (CPH) Requests for Emergency Medical Consent

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0050/005050375v0108.doc>

This procedural guide has been revised with guidelines for CSWs on how to authorize emergency medical, surgical, dental, or other remedial care for foster children. (SA)

0600-501.10 (REV) Medical Consent

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0600/060050110v0108.doc>

This procedural guide has been updated with information on who can consent to and the procedure for obtaining consent for medical treatment for foster children, including the procedure for obtaining emergency medical consent pursuant to WIC 369(d). (SA)