



Children's Law Center of Los Angeles

“DEPENDENCY LEGAL NEWS”

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NEW DEPENDENCY CASE LAW

FAMILY REUNIFICATION PLAN

In re G.G.- filed June 29, 2010, Second Dist., Div. Five

Docket No. B215471

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/B215471.DOC>

Children were detained from their father because of allegations of serious bodily harm, failure to protect, serious emotional damage, and sibling abuse. During investigation of the referral, father made racially and sexually inappropriate comments at the social workers and it was found that he also made such comments when dealing with the children's school staff and service providers. At the jurisdiction hearing, the court declared the children dependents, finding that the father used inappropriate discipline; that child G.G. had exhibited explosive, aggressive, uncontrollable behavior requiring therapeutic and psychiatric intervention, but the father failed to obtain timely, necessary therapeutic and psychiatric intervention despite numerous recommendations; and that the father had created a chaotic home environment including regular and consistent confrontational behavior with the children's school and in the community. As part of father's reunification plan, the court ordered him to address his use of sexist and racist language in individual counseling, although his behavior was not part of the sustained petition. Father appealed.

Affirmed. The juvenile court has discretion to design a reunification plan that will likely work and to take reasonable steps to make it achieve the desired results. There is no statutory requirement that a jurisdictional finding list every aspect of parental unfitness that will eventually constitute the specifics of the reunification program, as long as the reunification plan is designed to resolve the conditions that led to the jurisdictional findings. Here, father's

use of racist, ethnic, and sexist epithets often arose in the context of anger management issues, such as at the children's schools, in his interactions with childcare professionals, during his discipline of the children, and while interacting with social workers. Thus, the juvenile court could reasonably conclude that the father's use of racist and sexual epithets was part of his broader anger management problem and would interfere with the implementation of the reunification plan. By ordering father to address this matter in counseling, the juvenile court reasonably found that the issues listed in the sustained petition could be resolved. The court also reasonably found that for father to successfully reunify with his children, he had to be able to work effectively with the social workers and school personnel, and his ability to do so would be enhanced if he understood that in a diverse culture such as Los Angeles County, he could not consistently insult women and people different from him who were working with him to reunify the family. Counseling on the subject could help him understand this. (SA)

VISITATION

In re Kyle E. - filed June 22, 2010, Third Dist.

Docket No: C061669

Link to Case: <http://www.courtinfo.ca.gov/opinions/documents/C061669.PDF>

A petition was filed alleging jurisdiction over the child pursuant to section 300, subdivision (c). Father was a non-custodial father requesting neither custody nor services. In its dispositional order, the court stated only that "[w]ith regard to the father's visits, those will be supervised only at this point." The minute order stated, "The father shall have supervised visitation with [the minor] as frequent as is consistent with the well-being of [the minor]. [The Department] shall determine the time, place and manner of visitation, including the frequency of visits, length of visits, and by whom they are supervised. [The Department] may consider [the minor's] desires in its administration of the visits, but [the minor] shall not be given the option to consent to, or refuse, future visits. . . ." Father appealed, on the grounds that the visitation order improperly delegated to the Department the responsibility of determining whether visitation with the minor would occur at all.

Reversed. Given the lack of necessary detail in the oral pronouncement regarding visitation and the improper delegation of authority to the Department in the written order regarding whether visitation would occur at all, the case is remanded to the juvenile court to clarify the terms and conditions of father's visitation, including, but not limited to, a minimum number of visits or that visits are to occur regularly. (PB)

UNPUBLISHED CASES OF INTEREST

Efren S. v. Superior Court - filed June 22, 2010, Second Dist., Div. Three

Docket No. B223298

Link to Case: <http://www.courtinfo.ca.gov/opinions/nonpub/B223298.PDF>

Seven-year-old child was detained because father was arrested and drugs were found in his home. Child was placed with relatives. At time of six-month hearing, father was in prison serving a six-year sentence. Prison did not offer services required by case plan. Father did,

however, call and write to child. Court found that father could not possibly be released within the reunification period, terminated father's reunification services and set a WIC 366.26 hearing. Father filed writ petition.

Reversed. Court should have considered all the factors listed in WIC 361.5(e), not just the length of father's sentence. Agency failed to report on what programs father might be able to access from prison, father's ability to remain in contact with child, and whether continuing services would be beneficial or detrimental to child. Even if father would not be released during the reunification period, he still has an interest in maintaining contact with the child so that his parent-child relationship is not eroded. (MM)

OTHER LEGAL DEVELOPMENTS

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

For Your Information (FYIs):

10-39 Announcing The New DCFS 90-Day Transition Planning Conference (90-Day TP Conference) and Federally Required 90-Day Transition Plan (90-Day TP) for Foster Youth Prior to Aging-Out of Foster Care

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2010/FYI103990dayTILPv2.rtf>

This FYI is to notify staff of the new federal mandate that requires a 90-Day Transition Plan (90-Day TP) for foster youth prior to youth transitioning/emancipating or aging-out of foster care. *Public Law 110-351, The Fostering Connections to Success and Increasing Adoptions Act*, requires that a foster youth have a 90-Day Transition Plan that specifically covers the following areas: housing, education, health insurance, mentors/continuing support services and, workforce support/employment services. The purpose of the 90-Day TP is to provide youth and those supporting them with a concrete individualized plan to follow that assists the youth in preparing for successful transition to adulthood. (SA)

10-41 Exchanging Information with Health Care Treatment Providers

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2010/FYI1041InfoSharring.rtf>

This FYI provides DCFS staff with examples of ways that DCFS and health care providers can share medical information about the child to insure that the health care providers have the necessary information to assess the child and make appropriate treatment recommendations. (SA)

10-45 DCFS Runaway Outreach Unit (ROU)

Link to FYI:

<http://dcfs.co.la.ca.us/Policy/FYI/2010/FYI1045RunAwayOutreachUnit.rtf>

This FYI provides DCFS staff with a background of DCFS' Runaway Outreach Unit. (SA)

Procedural Guides:

0050-503.45 (REV) Allegations Received From a Source Other Than the Child Protection Hotline

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0050/005050345V0610.doc>

This procedural guide was revised to reflect that pursuant to the Child Abuse and Neglect Reporting Act, whenever a DCFS employee who, within the scope of his/her employment, observes, suspects or receives a report of abuse, neglect, caregiver absence/incapacity or exploitation from a source other than the Child Protection Hotline, that employee shall immediately contact the CPH to make a referral. If during the course of the investigation on a referral regarding children in Out-of-Home Care, the investigation reveals that the caregiver's biological/adopted children are victims of abuse or at risk of abuse, the CSW shall contact the CPH to make a referral. (See Procedural Guide 070-548.05, Emergency Response Referrals Alleging Abuse in Out-Of-Home Care Regarding Children Who are Under DCFS Supervision.). If the child is at immediate risk, the CSW must remove the child per established policy and procedure. (SA)

0070-506.11 (REV) Interviewing the Alleged Victim at School for the Purpose of Investigating a Child Abuse Referral

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0070/007050611v0610.doc>

This procedural guide was revised with the updated procedures for interviewing children at schools, as a result of the Greene vs. Camreta case. (SA)

0070-529.10 (REV) Assessing Allegations of Physical Abuse

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0070/007052910v0610.doc>

This procedural guide was revised an overview on how CSWs are to assess a particular allegation (e.g., physical abuse) and instructions on observing, gathering, assessing evidence, etc. However, the instructions provided in this procedural guide are meant to support the emergency response investigation. CSWs must follow the procedures set forth in Procedural Guide 0070-548.10, Disposition of the Allegations and Closure of the Emergency Response Referral." In addition, this procedural guide was updated to reflect changes due to the warrant requirement impacting the disrobing, HUB, and medical consent policy. (SA)

0070-535.10 (REV) Assessment of Exploitation

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0070/007053510v0610.doc>

This procedural guide was revised an overview on how CSWs are to assess a particular allegation (e.g., physical abuse) and instructions on observing, gathering, assessing evidence, etc. However, the instructions provided in this procedural guide are meant to support the emergency response investigation. CSWs must follow the procedures set forth in Procedural Guide 0070-548.10, Disposition of the Allegations and Closure of the Emergency Response Referral.” (SA)

0070-547.11 (REV) Time Frames For Response to Referrals

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0070/007054711v0610.rtf>

This procedural guide was revised to include the following instruction: Vacations, illnesses and other factors which make an assigned CSW (including ERCP) unavailable to complete a contact must be reassigned or otherwise handled by management to ensure required contact is made timely. (SA)

0070-548.10 (REV) Disposition of the Allegations and Closure of the Emergency Response Referral

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0070/007054810v0610v2.rtf>

This procedural guide was updated to educate staff regarding when a CLETS request should be made during an ER investigation: “For referrals alleging emotional abuse or general neglect, a criminal background check can be initiated when the CSW deems it relevant and appropriate.” (SA)

0070-570.10 (REV) Obtaining Search Warrants and/or Removal Orders

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0070/007057010v0610.doc>

This procedural guide was updated to reflect current practice to speed up the warrant process. When removing a child from their parents’ custody, CSWs no longer utilize the detention search warrants or the protective custody warrants. They are now to rely on either removal orders or detention orders pursuant to WIC 319. (SA)

0100-520.25 (REV) Statement of Facts for Foster Care

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0100/010052025V0610.doc>

This procedural guide was revised with the CSWs, SCSWs, and RAs responsibilities when determining and re-determining eligibility for financial participation- AFDC-Foster Care. (SA)

0100-520.35 (REV) Kinship Guardianship Assistance Payment (KIN-GAP) Program

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0100/010052035v0610.doc>

This procedural guide provides clarification on the Kin-GAP eligibility requirement that the child must live with the legal guardian for at least 12 consecutive months. Further clarification was made regarding when child care subsidy ends. (SA)

0100-520.40 (REV) Out-of-Home Caregivers: Legal Consent Authority

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0100/010052040v0610.doc>

This procedural guide was revised to include changes to Manual of Community Care Licensing, Title 22 regulations dealing with the Prudent Parent Standard. In addition, instructions were added regarding whether or not caregivers can consent to allow a child in their care to get a tattoo and/or a body piercing. (SA)

0100-525.30 (REV) Placement Packet and Health & Education Passport Binder

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0100/010052530PlacementPacketv0610.doc>

This procedural guide was revised to add forms to the placement packet forms list including the SOC 154A, Placement Agency – Foster Family Agency Agreement. (SA)

0100-570.11 (REV) Runaways

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0100/010057011RunawayV0610.doc>

This procedural guide was updated to include instructions regarding how long to maintain the clothing of a runaway youth. In addition, a reference to the Runaway Outreach Unit was added. (SA)

0100-571.10 (REV) Capacity in a Relative/Nonrelative Extended Family
Member/Foster Family Home or FFA Certified Home

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0100/010051010v0610.doc>

This procedural guide was revised to address changes in Title 22 regulations regarding licensing capacity. (SA)

0200-507.25 (REV) Accepting a Consent for an Independent Adoption

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0200/020050725v0610.doc>

This procedural guide was revised to clarify that the Adoption Service Provider (ASP) who advised the birth mother and witnessed the signing of the consent can also be the ASP present for the signing of a waiver of the right to revoke consent, if the birth parents are represented by independent legal counsel. Also, if the waiver is signed in the presence of an ASP, the

waiver must be reviewed by the independent legal counsel prior to the waiver being signed. (SA)

0200-507.35 (REV) Stepparent and Domestic Partner Adoptions

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0200/020050735V0610.doc>

This procedural guide was updated to include language to inform the prospective adoptive parent that the juvenile court may waive their personal appearance at the hearing and that their appearance may be made by their counsel. (SA)

0200-508.10 (REV) Advising & Providing Services to Parents Prior To Accepting a Statement of Understanding & Relinquishment Document

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0200/020050810V0610.doc>

This procedural guide was updated to reflect that the Adoption Division is now the Adoption and Permanency Resources Division (APRD). Further, the procedure section of this policy was re-organized to clearly identify and define alternative forms of adoption. (SA)

0200-511.05 (REV) Initiating Adoption Assistance Program & Medi-Cal Benefits

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0200/020051105v0610.doc>

This procedural guide was updated to include information regarding changes to the Adoption Assistance Program eligibility requirements. Also, information is provided about the effect of the 2009/2010 Budget Act. A provision of this bill terminates the age-related increase for initial Adoption Assistance Program (AAP) agreements signed on or after January 1, 2010. Finally, this procedural guide was updated to reflect that the Adoption Division is now referred to as the Adoption and Permanency Resources Division (APRD). (SA)

0600-515.11 (REV) Interagency Placement Screening Committee Presentation Guide

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0600/060051511V0610.doc>

This procedural guide was revised to instruct staff to utilize a Resource Management Process (RMP) TDM prior to referring the youth to the Screening Committee. (The Resources Management Process is a type of TDM that is a family centered, multi-departmental, integrated approach to identifying, coordinating and linking appropriate resources/services to meet the needs of children who are either entering into an RCL 6 through 14 group home placement, are currently in an RCL 6 through 14 group home and at risk of replacement, or are exiting from an RCL 6 through 14 group home placement.) (SA)

0900-522.11 (REV) Specialized Care Increment (SCI) – R-Rate

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0900/090052211v0710.doc>

This procedural guide was revised to reflect and incorporate current practice, related policies, and forms as well as the established dual agency rate process/criteria. (SA)

0900-523.10 (REV) Supplemental Security Income (SSI) and/or Social Security Benefits for Children in Care

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0900/090052310v0610.doc>

This procedural guide was updated to reflect that the Social Security Administration may now accept an SSI application from a youth 90 days prior to the anticipated transition date/termination of federal foster care benefits. It also clarifies that the SSI applications are processed by the SSI Unit. (SA)

1200-500.10 (REV) Obtaining Vital Records (Birth, Death, Marriage, and Divorce)

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/1200/120050010VitalRecordv0610.doc>

This procedural guide was updated with instructions on the procedure that CSWs must follow when a document needs to be notarized. (SA)