



Children's Law Center of Los Angeles

“DEPENDENCY LEGAL NEWS”

Vol. 6, No. 13 July 28, 2010

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

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NEW DEPENDENCY CASE LAW

PLACEMENT WITH NON-OFFENDING NON-CUSTODIAL PARENT ABROAD

In re Karla C. – filed July 21, 2010, First Dist.

Docket No. A126685

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/A126685.PDF>

Mother appealed an order on a contested disposition hearing placing child, Karla with her father who resided in Peru. On appeal, mother argued that the trial court abused its discretion by making insufficient provisions for the enforceability of its continuing jurisdiction after Karla was placed in Peru. Karla was detained from mother for failure to protect against stepfather who was found to have sexually abused five year old Karla within the meaning of WIC 300, subdivision (d). Mother did not believe Karla's initial disclosure and continued to be supportive of stepfather even after he admitted to sexual misconduct on at least three occasions. At the dispositional hearing, the court followed the law set forth in WIC 361.2 which indicates a parent has a constitutionally protected interest in assuming physical custody in the absence of clear and convincing evidence that the parent's choices will be 'detrimental to the safety, protection, or physical or emotional well-being of the child.' Although the court found Karla was bonded with mother and did not have an established relationship with father, the court ordered Karla to be placed with father in Peru. The court concluded that the evidence failed to show that placement with father would be detrimental to Karla. The juvenile court granted father sole physical and legal custody of Karla and ordered the agency, within three months, to complete and submit a report with an update on the placement and Karla's status.

Reversed and remanded. The appellate court reversed the trial court's ruling and remanded the case to the lower court for a further hearing to determine the enforceability of the juvenile court's jurisdiction in Peru, and to allow the trial court to then impose any measures that may be appropriate to ensure that its jurisdiction is maintained. The appellate court indicates that there would be no need for review had the trial court ordered Karla placed home of parent father and terminated jurisdiction. However, here the trial court erred in making an order for a minor subject to its dependency jurisdiction placed abroad without any apparent consideration of its ability to make or enforce any further orders that may be necessary or appropriate. Should problems with placement arise, or should the court determine that Karla should be placed with mother, the juvenile court is unable to effect her return to California. The court was not persuaded that either the UCCJEA or the Hague Convention ensured the juvenile court's jurisdiction over Karla once placed in Peru. (LS)

PROCEDURE TO CHANGE FREED CHILD'S PLACEMENT

In re A.C. – filed July 15, 2010 Sixth Dist.

Docket No. H034769

Link to case: <<http://www.courtinfo.ca.gov/opinions/documents/H034769.DOC>>

Child A.C. appealed the juvenile court's order arguing that the court erred in allowing the department to use a section 387 petition to remove her from her temporary foster home and place her in a group home. A.C. was freed for adoption but was no longer in an adoptive home. While A.C. did not object to her removal from the foster home and placement in a group home, she objected to the department's use of the 387, rather than 388 petition. Her objection was based in part on her assertion that the section 387 petition might have a negative impact on her due to the court's factual findings.

Reversed and remanded. The appellate court found that the plain language of the statute dictates that section 387 is not applicable to a freed child. Subdivision (a) is clear that the section is applicable when the order to modify the placement is made regarding a child removed from the physical custody of a "parent, guardian, relative, or friend" and A.C. was already freed for adoption and in the custody of foster parents. The appellate court also stated that section 388 is broader in scope and is the appropriate means to change the placement of a freed child. Section 388 does not require the same degree of specific factual findings as section 387 and the court would only be required to make a finding of a change in circumstances in order to move A.C. to a different placement. Section 387 would require specific negative findings and in this case the juvenile court found that A.C. was destructive of property, sexually inappropriate, used foul language, and bothered and disturbed others with whom she lived. (JC)

OTHER LEGAL DEVELOPMENTS

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

For Your Information (FYIs):

10-42 Free or Low Cost Health Coverage For Children

Link to FYI:

<http://dcfs.co.la.ca.us/Policy/FYI/2010/FYI1042FreeLowHealthCoverageKids.doc>

This FYI provides staff with a useful resource list to assist in meeting the needs of families currently without health care coverage. (SA)

10-46 New Hague Notice Requirements

Link to FYI:

<http://dcfs.co.la.ca.us/Policy/FYI/2010/FYI1046HagueNoticeReq.rtf>

This FYI is to inform staff about the new Hague notice requirements. Per the Hague Convention Treaty, social workers have a legal obligation to comply with the Hague Convention when a parent resides outside of the United States, even when it is not court ordered for a parent to be noticed per the Hague Convention. **The Hague Convention only applies when the social worker has an address for the parent.** As a result of the Jennifer O. (2010) 184 Cal. App. 4th 539 case, Hague notice is **only required** for the following two hearings, the Jurisdictional/Dispositional hearing to adjudicate their child a dependent of the court and the WIC 366.26 hearing to terminate parental rights. The Hague Convention treaty does not apply to service of notice of review hearings, however if there is an address on file, social workers are to notice by first class mail for review hearings. (SA)

10-47 Adoption Assistance Program (AAP) Benefit Payment System Implementation

Link to FYI:

<http://dcfs.co.la.ca.us/Policy/FYI/2010/FYI1047AAPBenefitPaymentSystem.doc>

This FYI is to announce the implementation of the new Adoption Assistance Program (AAP) benefit payment system beginning July 20, 2010. The AAP benefit payment system is a comprehensive web-based application that performs AAP eligibility case management functions and sends payment actions to the Department's Automated Provider Payment System (APPS) for generation of AAP payments to our Adoptive families from the Auditor-Controller's Electronic Countywide Accounting Payment System (e-CAPS). The new AAP web-based application replaces an outdated AAP System. The new system contains a Desk Guide and on-line video tutorial on the use of the system. (SA)

10-48 Temporary Changes to DCFS Educational Release Time Practice

Link to FYI:

<http://dcfs.co.la.ca.us/Policy/FYI/2010/FYI1048TempChangesEdReleaseTime.doc>

This FYI is to notify staff that DCFS, in conjunction with the Graduate Schools of Social Work, has agreed to a placement plan that supports the operations within DCFS to reduce the

number of Emergency Response referrals over 60 days. In an effort to continue to support employees' educational goals and address the current workload needs impacting DCFS, field placement options will be temporarily altered. (SA)

Procedural Guides:

E020-0500 (REV) Foster Care Eligibility- General Requirements

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20FCE/E020/E0200500FosterCarEligibilityGRv0710.doc>

This procedural guide was updated with changes in the forms used when requesting birth, death and marriage certificates and with information regarding Notice of Actions. (SA)

E030-0510 (REV) Initial Determination For Financial Participation

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20FCE/E030/E0300510InitialDeterminationv0710.doc>

This procedural guide which provides guidelines for Eligibility Workers in meeting the federal and state compliance standards, including accurate and timely payments to caregivers, timely referrals for issuing Medi-Cal, implementation of model case format to comply with State and Federal regulations, and completion of initial and yearly redeterminations, updated the format for workers to follow to ensure compliance standards continue to be met. (SA)

300-503.94 (REV) Set-On/Walk-On Procedures

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0300/030050394V0710.rtf>

This procedural guide was updated to notify staff that a walk-on is required and a minute order must be generated to terminate jurisdiction pursuant to WIC section 602. (SA)