



Children's Law Center of Los Angeles

“DEPENDENCY LEGAL NEWS”

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Written by: Martha Matthews (MM), Cameryn Schmidt (CS), Jenny Cheung (JC)

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NEW DEPENDENCY CASE LAW

REHEARING; Welf. & Inst. Code § 250

Ricardo V. v. Superior Court – filed Feb. 1, 2007, Second Dist., Division One
Docket No. B194013

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/B194013.DOC>

Child was detained from parents and placed with relatives. At a contested § 366.22 hearing, the referee ended the suitable placement order and returned child to father. Child's counsel applied for rehearing before a judge under § 250. The judge set a rehearing date, and stated that since rehearing was granted the referee's order is nullified and the suitable placement order is reinstated. However, the judge allowed the child to remain with father on a visit, pending the rehearing date. At the rehearing, the judge removed the child from father and re-placed her with the relatives. Father filed a writ petition. Writ denied. The Court of Appeal agreed with father that under § 250 and Rule of Court 5.540, a referee's order remains in effect until the rehearing actually occurs. (In an unpublished part of the opinion, the court found that father had waived this issue, and moreover any error was harmless.)

UNPUBLISHED CASES OF INTEREST

JURISDICTION; Welf. & Inst. Code § 300(b); § 355.1(d)(4)

In re Jesus D. – Filed Jan. 24, 2007, Second Dist., Division Two
Docket No. B190814

Three children were detained because the youngest was born drug-exposed. At the time they were detained, the middle child Diego was three years old and was living with his maternal grandparents. He had lived with mother and the grandparents for the first two years of his life; mother then moved out and the grandparents continued caring for him. DCFS alleged that mother had put Diego at risk by letting him live with the grandparents, because the grandfather has been convicted of sexually molesting the mother 13 years ago. DCFS removed Diego and placed him in foster care, and then took the position that that it could not return him to the grandparents because the grandfather had a nonwaivable conviction. Mother and minors' counsel argued that the court should dismiss the petition as to Diego, because: (1) the § 355.1(d)(4) presumption that a child is at risk in the care of a sex offender was rebutted since the grandfather had completed his probation and treatment years ago and was allowed to return to his family, and there was no evidence that grandfather had ever reoffended, and (2) there was no nexus between mother's drug use and any risk to Diego. The juvenile court dismissed the petition as to Diego. After an unsuccessful writ petition, DCFS appealed. Affirmed. There was substantial evidence supporting the trial court's rulings that the § 355.1(d)(4) presumption was rebutted, and that Diego was not at risk from mother's drug use.

NON-DEPENDENCY CASES OF INTEREST

PATERNITY; Fam. Code § 7630

Said v. Jegan – Filed January 23, 2007, Second Dist., Division Eight
Docket No. B182232

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/B182232.DOC>

Appellant and his wife were divorced in 1977, but when she gave birth to a son in 1979, he was listed as the father on the birth certificate. In 2003, when the son was 24 years old, he brought an action under Fam. Code § 7630(b) to remove his name from the birth certificate, alleging that he was erroneously listed as the father. Mother opposed this, arguing that only a presumed father has standing to bring an action under § 7630(b). The trial court dismissed the action. Reversed. Mother's position would lead to the absurd result that a man would have to allege that he is a presumed father in order to bring an action to *disprove* paternity under § 7630(b). Instead, § 7630(b) should be interpreted to allow alleged fathers as well as presumed fathers to bring an action to establish either the existence or nonexistence of a § 7611(d) presumed father-child relationship.

OTHER LEGAL DEVELOPMENTS

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

Procedural Guides:

For Your Information (FYIs):

07-05 CWS/CMS Procedures for Referrals on Previously Adopted Children

Link to FYI:

<http://dcfs.co.la.ca.us/Policy/FYI/2007/FYI0705RefferalonAdopedkidst.doc>

This FYI advises CSWs of procedures to follow when a new referral on a previously adopted child is made. (JC)

Procedural Guides:

05-504.05 (REV) Referral Assignment Criteria

Link to Procedure:

<http://dcfs.co.la.ca.us/policy/hndbook%20cws/0050/005050405RefferralAsignmentCriteriaV0207.doc>

This revised procedural guide informs CSWs that the Child Protection Hotline is responsible for the assignment of referrals to the Emergency Response Command Post and regional offices and informs CSWs of procedures to follow when referrals are received. (JC)

07-548.20 (REV) Taking Children Into Temporary Custody

Link to Procedure:

<http://dcfs.co.la.ca.us/policy/hndbook%20cws/0070/007054820v0207.doc>

This revised procedural guide informs CSWs of procedures to follow when taking children into temporary custody. (JC)

100-520.0 When A Child Is Residing In The Home Of A Relative Or Non-Relative Extended Family Member That Does Not Meet Title 22 Approval Standards

Link to Procedure:

<http://dcfs.co.la.ca.us/policy/hndbook%20cws/0100/010052011Title2StandardsV0207.doc>

This procedural guide informs CSWs that a child may be temporarily placed in the home of a willing and able relative or non-relative extended member caregiver when the sudden unavailability of a foster caregiver requires a change in placement on an emergency basis after the disposition hearing. This procedural guide also provides guidelines as to when 387 petitions should be filed when children are removed from a relative's care. (JC)

100-525.20 (REV) Moving a Child's Possessions

Link to Procedure:

<http://dcfs.co.la.ca.us/policy/hndbook%20cws/0100/010052520V0207.doc>

This procedural guide has been revised to provide CSW's with guidelines on what possessions are appropriate for the child to take with them to ensure the safety of the child and those around them. (JC)

100-535.60 (REV) Completing the Emancipation Process

Link to Procedure:

<http://dcfs.co.la.ca.us/policy/hndbook%20cws/0100/010053560EmancipationV0207.doc>

This procedural guide has been revised to instruct staff to complete the DL 937, Verification for Reduced Fee identification Card. This will allow the youth to obtain a California ID Card for the reduced fee of \$6. In addition, instructions have been added to address the requirement that Supplemental Security Income (SSI) eligible youth are provided information regarding SSI benefits. Further, instruction have been added regarding providing proof of dependency for youth upon emancipation have also been added. (JC)

100-570.09 The Care of Children Placed in a Foster Family Agency Home (FFA)

Link to Procedure:

<http://dcfs.co.la.ca.us/policy/hndbook%20cws/0100/010057009FFA.doc>

This procedural guide informs CSWs of their responsibilities when a child is placed in an FFA setting. (JC)

300-306.45 (REV) Removal Orders

Link to Procedure:

<http://dcfs.co.la.ca.us/policy/hndbook%20cws/0300/030030645RemovalOrderV0307.doc>

This revised procedural guide informs CSWs that they are required to submit a JV 450 whenever a parent is incarcerated in a California state prison facility or in a facility (i.e., county jail, city jail, etc.) outside Los Angeles County and that parent wishes to attend an

appearance hearing. The JV 450 is used in all situations in which a parent wishes to or is ordered to appear for a hearing in dependency court. (JC)

300-503.21 (REV) Concurrent Planning & Termination Of Parental Rights (TPR)-Related Activities

Link to Procedure:

<http://dcfs.co.la.ca.us/policy/hndbook%20cws/0300/030050321v0207.doc>

This revised procedural guide informs CSWs of their responsibilities when doing concurrent and/or early adoptive planning. (JC)

300-503.25 (REV) Removing a Child From the Home of Prospective Adoptive Parent(s)

Link to Procedure:

<http://dcfs.co.la.ca.us/policy/hndbook%20cws/0300/030050325ProspectiveAdoptiveParentV0207.doc>

This revised procedural guide informs CSWs of procedures to follow when removing a child from a prospective adoptive parent's home. (JC)

300-503.27 Reinstatement of Parental Rights

Link to Procedure:

<http://dcfs.co.la.ca.us/policy/hndbook%20cws/0300/030050327reinstatementparentalrightsv0207.doc>

This procedural guide informs CSWs of Welfare and Institutions Code Section 366.26(i)(2), which states that a child who has not been adopted after the passage of at least three years from the termination of parental rights and for whom the court has determined that adoption is no longer the permanent plan, or is no longer likely to be adopted, can petition the juvenile court for the reinstatement of parental rights.

300-506.08 (REV) Communications With A Child's Attorney

Link to Procedure:

<http://dcfs.co.la.ca.us/policy/hndbook%20cws/0300/030050608V0207.doc>

This revised procedural guide issues departmental policy and procedures regarding CSWs' communications with a child's attorney during all dependency matters. (JC)

1000-504.10 Case Transfer Criteria and Procedures

Link to Procedure:

<http://dcfs.co.la.ca.us/policy/hndbook%20cws/1000/100050410CaseTransferCriteriaRev0207.doc>

This procedural guide has been revised to address including alerts to the receiving office when there are threats or acts of violence against CSWs by a client, as well as, gang involvement, organized crime, etc. (JC)

1200-500.81 Family Preservation Program Services as Part of the Welfare-to-Work Plan

Link to Procedure:

<http://dcfs.co.la.ca.us/policy/hndbook%20cws/1200/120050081FPLinkageV0207.doc>

This procedural guide provides instruction to the DCFS staff for the coordination of the Multi-Disciplinary Case Planning Committee (MCPC) meeting with the DPSS Family Preservation GAIN Services Worker (GSW)/Contracted Case Manager (CCM). (JC)