



Children's Law Center of Los Angeles

“DEPENDENCY LEGAL NEWS”

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NEW DEPENDENCY CASE LAW

TERMINATION OF PARENTAL RIGHTS--ADOPTABILITY

In re I. I.,--filed November 25, 2008, Fourth Dist., Div. Two

Docket No. E045763

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/E045763.DOC>

Mother appealed from an order terminating her parental rights to her four children on the grounds that the trial court's finding of adoptability was not supported by substantial evidence, because: (1) there was no evidence of any back-up approved homes that were willing to take the children or children with their characteristics; 2) the children had severe behavior problems; and 3) the children were part of a large sibling set.

Affirmed. There were two prospective adoptive families, each prepared to adopt two of the children. The fact that prospective adoptive families had been identified is an indication that the children were likely to be adopted within a reasonable time. Moreover, since there is no requirement that an adoptive family be readily available in order for the juvenile court to find the children adoptable, there is obviously no requirement that back-up families be identified. Although the children had significant negative behaviors, they also had numerous positive characteristics which supported the court's finding of adoptability. Finally, although the fact that the children were part of a large sibling set is relevant to determining whether a child is difficult to place for adoption, the issue of adoptability focuses on the individual child's characteristics. The question whether the “sibling exception” to termination of parental rights applies is a separate inquiry. In this case, substantial evidence supported the trial court's finding that the sibling exception in WIC 366.26(c)(1)(B)(v) did not apply. (PB)

NON-DEPENDENCY CASES OF INTEREST

PARENTAGE; FAMILY CODE § 7645

San Mateo County Dep't of Child Support Services. v. Clark – filed Nov. 25, 2008, First District, Div. Four

Docket No: A120494

Link to Case: <http://www.courtinfo.ca.gov/opinions/documents/A120494.DOC>

County child support agency brought paternity action in 1994 regarding child born in 1989. Father did not appear and court entered default judgment. In 2006, agency filed contempt motion because father had not paid support. Father appeared and moved to set aside paternity judgment. Court ordered mother and child to submit to genetic testing, but they did not appear (child had turned 18). Court set aside paternity judgment. County agency appealed.

Reversed. Family Code 7645 allows court to set aside paternity judgment *only if* genetic tests show the previously declared father is not the child's biological father. Moreover, regardless of test results, court can deny motion to set aside paternity judgment on basis of child's best interests under § 7648. Court should have joined mother and child as parties and compelled them to submit to testing, then decided whether to set aside the paternity judgment. (MM)

OTHER LEGAL DEVELOPMENTS

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

For Your Information (FYIs):

08-56 (REV) On-Site DNA Testing at Children's Court

Link to FYI:

<http://dcfs.co.la.ca.us/Policy/FYI/2008/FYI0856UpdateFYI0840onsiteDNAtestingCourtUpdate.doc>

This FYI is an update to FYI 08-40 "On-Site DNA Testing at Children's Court" issued September 30, 2008. It is to update DCFS staff that testing hours have changed as follows: Mothers and children on Thursdays from 1:30 P.M. to 4:30 P.M and fathers on Fridays from 9:00 A.M. to 12 noon. On-site testing in custody is not available at this time. (SA)

08-57 (REV) Referrals To The Asian Pacific Program

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2008/FYI0857AsianPacific.doc>

This FYI cancels FYI 05-54 "Referrals To The Asian Pacific Program" issued November 17, 2008. It is to advise staff of the Asian Pacific languages the Asian Pacific Program is staffed to provide services to as well as the Asian languages it does not yet cater to. (SA)

08-58

Transitional Housing Program (THP) – Plus Fact Sheet

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2008/FYI0858THPplusFactSheet.doc>

This FYI notifies staff about THP-Plus which is a transitional housing opportunity for Transition Aged Youth (TAY) (DCFS/Probation), from 18 years of age to under 24 years of age. Its purpose is to provide selected independent living opportunities Countywide for eligible participants to practice life skills in a safe environment and to assist with the transition from dependence to self-sufficiency. (SA)