



# Children's Law Center of Los Angeles

## "DEPENDENCY LEGAL NEWS"

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### NEW DEPENDENCY CASE LAW

#### **DENIAL OF REUNIFICATION SERVICES -- WELF. & INST. CODE § 361.5(b)(10)**

***Cheryl P. v. Superior Court*** – filed May 5, 2006, Fourth Dist., Div. One

Docket No. D047891

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/D047891.DOC>

The parents' first child, Daniel, was removed due to the parents' homelessness and neglect. While the parents were still in reunification with Daniel, a second child, Nicholas, was born. The court took jurisdiction over Nicholas based on the father's mental illness and the mother's marginal intellectual functioning. The dispositional hearing for Nicholas was held on the same day as the eighteen-month review hearing for Daniel. The court conducted the review hearing first and terminated reunification services, even though it found that the parents had tried hard to reunify. It then denied reunification services with Nicholas under Welf. & Inst. Code § 361.5(b)(10), finding that it would be fruitless to offer the parents an additional six months of reunification since they had been unable to resolve their problems after eighteen months of services. Reversed. The court of appeal held that the juvenile court had erroneously applied a "fruitless" standard. Under the second prong of § 361.5(b)(10), the court must find that the parents failed to make a reasonable effort to treat the problems that led to removal of the sibling. The evidence showed that the parents had in fact made reasonable, albeit unsuccessful, efforts to treat the problems that led to Daniel's removal. The 'reasonable effort to treat' standard in § 361.5(b)(10) is not synonymous with 'cure.' Also, when services as to one child are terminated at the same time that services as to a sibling are denied, the statutory language "has not subsequently made a reasonable effort to treat the problems" in (b)(10) refers to efforts made *since removal* of the sibling (disagreeing with *In re Harmony B.* (2005) 125 Cal.App.4th 831). The juvenile court was ordered to provide the parents with six months of reunification services for Nicholas. (CS)

#### **DUE PROCESS – PARENTS' RIGHT TO**

***In re Vanessa M.*** – filed Apr. 25, 2006, First Dist., Div. Five

Docket No. A109479

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/A109479A.DOC>

After father missed or was late for several hearing dates, juvenile court imposed an “evidence sanction” barring further testimony by father at the dispositional hearing. Reversed. Juvenile court violated father’s right to due process, and the error was not harmless beyond a reasonable doubt. The government’s interest in resolving dependency matters quickly, and giving juvenile courts authority to control proceedings, must be balanced against parents’ due process rights. When a parent is absent without good cause, the court is entitled to proceed in the parent’s absence, and need not grant a continuance. By being absent, the parent waives the right to the benefits of being present *at that hearing*. But the court may not punish the parent by barring him from testifying at a future hearing. The error was not harmless because the facts regarding several counts in the petition were in dispute, and father’s testimony might have changed the outcome. (MM)

### **OTHER LEGAL DEVELOPMENTS**

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

##### **Procedural Guides:**

0300-506.05 Conversations With Attorneys And Other Non-DCFS Court Staff

Link to procedure: <http://dcfs.co.la.ca.us/policy/hndbook%20cws/0300/030050605v42706.doc>

This procedural guide has been revised to reflect that the name of Dependency Court Legal Services has been changed to the Children’s Law Center of Los Angeles. (JC)

##### **For Your Information (FYIs):**

06-26 (REV.) Notice to Relative Caregivers Re: Funding Options for Relative Caregivers

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2006/FYI0626RelativeFundingOptionsRev.doc>

This FYI requires CSWs to provide relatives with a copy of a letter entitled: Notice to Relative Caregiver Re: Funding Options for Relative Caregiver when placing a child in the home of a prospective relative caregiver. (JC)

06-27 Factors to Consider When Referring Cases to the Indian Child Welfare Unit

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2006/FYI0627ICWAUnitreferralCriterria.doc>

This FYI reminds CSWs that just because a case has been assigned to Dept 413 (court designated to hear all American Indian cases) is not a basis to transfer the case to the Indian Child Welfare Unit. (JC)

06-28 The DCFS 280 and 709 are Now on CWS/CMS

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2006/FYI0628DCFS709and280nowonCWSCMS.doc>

This FYI advises CSWs that the DCFS 280, Technical Assistance Action Request and the DCFS 709, Foster Child Needs and Case Plan Summary are now available in CWS/CMS. (JC)