

Keeping Current

A monthly newsletter for CCAN attorneys | Published by DC's Children's Law Center | October 2012

D.C. Court of Appeals

In Re D.S. (No. 10-FS-1556) – Decided September 20, 2012; Available at <http://www.dccourts.gov/internet/documents/10-FS-1556.pdf>.

This case involves the unsuccessful effort of an unwed biological father to maintain custody of his six children. The children were removed from their mother and committed to the custody of CFSA over the father's objection, and without any finding that he was an unfit parent. The Court of Appeals found that the trial court's determination that it was in the children's best interests to be committed to CFSA failed to sufficiently take into account the parental presumption; a fit parent's right to presumptive custody of his or her children. In order to rebut this presumption, the trial court must first make a finding that a parent failed to grasp his or her opportunity interest in his or her children; that the parent is unfit; or that there is clear and convincing evidence that it is in the child's best interest to be placed elsewhere. The parental presumption applies in temporary custody decisions as well as in permanent orders. Here, the Court of Appeals reversed the trial court's order affirming the disposition of commitment, and remanded the case so that the trial court could incorporate the parental presumption into its analysis.

In Re M.F. (No.08-FS-733) – Decided September 27, 2012; Available at http://www.dccourts.gov/internet/documents/08-fs-733_mtd.pdf

The Court of appeals upheld the trial court's adjudication of abuse and neglect over a birth father's objection. The father appealed on the grounds that there was insufficient evidence to support a finding of neglect; that the court failed to compel the government to provide him with certain evidence; and that the court erred in denying him visitation. This decision includes a brief discussion of when hearsay falls within the medical diagnosis exception. Even when the court arguably erred in admitting statements under this exception, the error is harmless because the same hearsay came in, without objection, from other sources - an important reminder that hearsay not objected to is reasonably relied upon by the fact finder. Evidence in possession of the federal government is beyond the power of the trial court to compel disclosure. Temporary visitation orders are not final orders subject to appellate review.

About This Publication

Keeping Current is a compilation of relevant news and information, including trainings and events. The materials referenced in *Keeping Current* are intended to be additional resources for consideration by members of the CCAN community, and Children's Law Center cannot verify the quality of all the materials or events referenced herein. CCAN attorneys should conduct their own independent research when reviewing these materials, and should review the weekly CCAN e-mail for current information. Please contact Tomar Nicole Brown, Training Coordinator, with comments or suggestions. *Keeping Current* is also posted on the Family Law page of ProBono.net/dc and www.childrenslawcenter.org.

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Children in the News

DC Children and Youth

New Community for Children Helps Children Thrive (WJLA) Available at: <http://tiny.cc/wovclw>

Girl removed from family after unexplained bleeding and trip to Children's (ABC7 News) Available at: <http://tiny.cc/k0xclw>

12-year-old enters Alford plea in beating death of 2-year-old foster sister (Washington Post) Available at: <http://tiny.cc/93xclw>

Child Poverty Spikes in D.C. Region (WTOP) New report shows higher rates of child poverty in the area. In other press outlets, this report is getting news for the number of children with a foreign-born parent (half of kids in Montgomery and Fairfax counties do). Available at: <http://tiny.cc/xfyclw>

Local Group Keeps Spotlight on Missing Black Kids (District Chronicles) National but DC-focused story on missing black youth, including a parental abduction story. Available at: <http://tiny.cc/fyyclw>

National Child Welfare Issues

Experts Address the Legal Problems Surrounding Homeless Youth Services (Youth Today) This report features Deborah Shore of Sasha Bruce. Available at: <http://tiny.cc/t7yclw>

When A Boy is Sexually Abused by a Woman (Washington Post) National but DC-focused story on lack of attention to sexual assault of boys by women. Available at: <http://tiny.cc/iczclw>

The Social and Political Implications of Downward-Facing Dog (Huffington Post) Arianna Huffington talks about the effect of children growing up in poverty and under stress. Available at: <http://tiny.cc/bhzclw>

Teachers Aren't the Problem (Salon.com) A new book focuses on what schools should do to help poor kids succeed gets a little political. Available at: <http://tiny.cc/rmzclw>

Marriage Greatest Weapon Against Child Poverty (The Heritage Foundation) Report concludes that marriage is the greatest weapon against child poverty. Available at: <http://tiny.cc/8qzclw>

States Have Mixed Record Serving Homeless Youth (Governing.com) State-by-state review of laws affecting homeless/unaccompanied youth. Available at: <http://tiny.cc/5uzclw>

Bill Would Curb Foster Care Entries Liked to Deportation, Immigration Issues (The Chronicle of Social Change) A bill was introduced that aims to curb the number of children placed in foster care because of immigration enforcement, and end the termination of parental rights brought on because of deportation proceedings Available at: <http://tiny.cc/id0clw>

Foster Care Population Drops for Sixth Straight Year (CBS News) Available at: <http://tiny.cc/wo0clw>

Child Care Missing From Party Platforms (Huffington Post) Huffington Post blog says the presidential campaigns are ignoring child care. Available at: <http://tiny.cc/mb1clw>

Foster Children Casualties of D.C. Tax Battle (Foxnews.com) Tax reform talk could include elimination of adoption incentives. Available at: <http://tiny.cc/xm1clw>

The Atlantic also shares an excerpt from a new book that says women not wanting kids is entirely normal. Lots of child welfare and adoption issues included in this particular excerpt, especially child abandonment. <http://www.theatlantic.com/health/archive/2012/09/not-wanting-kids-is-entirely-normal/262367/>

Education News

D.C. Area Schools

D.C. to Increase Resources for Diabetic Students (Washington Examiner) D.C. Public Schools will train at least two school employees at every campus to administer insulin shots and other emergency medicine to diabetic students, per agreement signed with the federal education department. The school system also will be required to create a grievance process for students with disabilities who feel their rights have been violated. Available at: <http://tiny.cc/9suclw>

New Study Affirms Benefits of School Vouchers (Washington Examiner) Editorial on the D.C. Opportunity Scholars Program. Available at: <http://tiny.cc/k3uclw>

Successful Principal Dodges D.C. Rules (Washington Post) Available at: <http://tiny.cc/jcvclw>

D.C. Not Ensuring Criminal Background Checks at Private Special-ed Schools (Washington Examiner) D.C. schools officials have not been making sure that employees at private schools where special education students are sent pass criminal background checks, despite requiring its own public school staff to do so, according to an audit by the D.C. inspector general. Available at: <http://tiny.cc/xt0clw>

Educare early childhood center opens in Ward 7 (Washington Post) Mayor opens Educare center in Parkside-Kenilworth. Available at: <http://tiny.cc/k70clw>

DC schools set new achievement targets for students by race and income (Washington Post) Available at: <http://tiny.cc/u31clw>

Changes under DC's waiver of No Child Left Behind (Washington Post) Available at: <http://tiny.cc/y51clw>

Why Kids Should Grade Teachers (The Atlantic) This article mentions DC in a story about data informing the hiring and firing of teachers. Available at: <http://tiny.cc/2z2clw>

D.C. high school student shot by classmate after verbal altercation (Washington Times) Coolidge HS student in custody after shooting a classmate on the school grounds. Available at: <http://tiny.cc/822clw>

DCPS considers turning River Terrace into a special education school (Washington Post)

Available at: <http://tiny.cc/o52clw>

Some charters suspend or expel a lot of kids (Washington Examiner) Available at: <http://tiny.cc/572clw>

DC pilots mentoring program to keep high school grads in college (Washington Examiner) Available at:

<http://tiny.cc/da3clw>

National Education Issues

The achievement gap, by the numbers (Washington Post) The achievement gap in schools and how poverty affects it – a look at national numbers. Available at: <http://tiny.cc/ze1clw>

Tutors for Kindergarteners (Washington Post) Tutoring for kindergarteners is catching on nationwide, or at least in Missouri. Available at: <http://tiny.cc/ed3clw>

Mental Health News

The Lasting Effects of Neglect: Altered Brain Structure in Children (Time.com) Fortunately, good foster care can help neglected children catch up developmentally, in part. Available at: <http://tiny.cc/dj0clw>

Reports and Publications

Child Welfare Practice

National Findings on Access to Health Care and Service use for Children Enrolled in Medicaid or CHIP (Urban Institute) Available at: <http://tiny.cc/2hwclw>

Household Food Security in the United States, 2011 (USDA) USDA report says more families went hungry last year. Available at: <http://tiny.cc/zzzclw>

Mental Health

“Mental Health Practices in Child Welfare Guidelines” Toolkit (The REACH Institute) The Mental Health Practice in Child Welfare Guidelines Toolkit is a must-have resource for child welfare professionals. This powerful toolkit is designed to help administrators, supervisors, and case workers put into action the recently published consensus guidelines for mental health in child welfare (Child Welfare Vol. 88, No. 1, 2009). The toolkit offers valuable tips and resources for mental health screening and assessment, psychotherapy, psychopharmacology, parent support, and youth empowerment. It is the product of a collaborative effort between Casey Family Programs, the Annie E. Casey Foundation, and the REACH Institute, which offers consultation in its use. Available at: <http://www.thereachinstitute.org/pdf/Toolkit-June-2010.pdf>

Don't forget about Children's Law Center's Helpline!

Our **Helpline** provides CCAN attorneys with legal information and advice.

- *Staffed by CLC attorneys*
- *Confidential*
- *Legal information and assistance on general and case-specific topics, such as help identifying resources and services, sample pleadings, and other materials*
- *All Helpline calls are screened to identify potential conflicts of interest*

Call (202) 467-4900 (Option 3) — Monday-Friday, 9:00 a.m. to 5:00 p.m.

Save the Dates!

November 29, 2012 from 4:30 to 6:00 p.m. -- Abuse and Neglect Bench-Bar Dialogue (All A&N Judges Invited)

December 18, 2012 from 5:30 to 8:00 p.m. -- Holiday Party (Attorneys and Judges attend)

April 16, 2012 from 5:30 to 8:00 p.m. -- Domestic Relations Bench-Bar Dialogue (All DR Judges Invited)

Upcoming Events

Family Law Judicial Reception, sponsored by D.C. Bar

Tuesday, October 16, 2012 from 5:30 pm to 8:00 pm

Annual Judicial Reception: Please join fellow practitioners and Judges to mingle over cocktails and appetizers as the D.C. Bar starts a new programming year.

DC Advanced Advocates Training, sponsored by National Institute for Trial Advocacy (NITA)

November 6-11, 2012 — U.S. District Court for the District of Columbia and Georgetown University Law Center

The Advanced Advocacy Program is specifically designed for practitioners with trial experience. Working together in trial teams and alongside experienced NITA trial lawyers and jury consultants from across the country you will:

- *Use cutting-edge focus group techniques and data as a tool for case planning*
- *Identify the problems associated with your case, solve those problems through analysis of actual focus group data, and develop a plan of action for trial using this data*
- *Prepare and perform opening statements, direct/cross-examinations of fact and expert witness (including actual forensic economic witnesses) and closing arguments*
- *Meet with faculty members and communications consultants for customized, individual critiques of your numerous live and videotaped performances*

To conclude the program you will conduct a full jury trial and have a chance to debrief with the jurors afterwards.

Follow this link to register: <http://tiny.cc/pguclw>

Upcoming Events (cont.)

Public Benefits Training series, sponsored by DC Bar Pro Bono Program

DC Bar Conference Center, 1101 K Street NW, Washington, DC.

This brown bag lunch training series is a partnership between the Legal Aid Society of the District of Columbia, the Washington Legal Clinic for the Homeless, and Whitman-Walker Health Legal Services with support from Bread for the City and DC Hunger Solutions. The trainings are free and an opportunity to learn about eligibility, benefits, application procedures, and practical tips on how to help your clients navigate the system. It is also an opportunity to hear about new developments or policy changes affecting the specific benefit program. Legal services lawyers, pro bono lawyers, or anyone who works with low-income clients are encouraged to attend these sessions.

*Wednesday, October 17, 2012 - Noon - 2 pm

TANF: Cash assistance for poor families

With steep benefits reductions coming this October for families who have received Temporary Assistance to Needy Families' (TANF) for more than five years, join Lucy Newton and Westra Miller (Legal Aid Society of the District of Columbia) to learn about eligibility, benefits, the new vendor contracts, 60-month time limit, and sanctions for this critical safety net program.

*Tuesday, October 30, 2012 - Noon - 2 pm

DISABILITY BENEFITS: Social Security Disability benefits (SSDI / SSI) & IDA

Join Erin Loubier (Whitman-Walker Health), Scott McNeilly (Washington Legal Clinic for the Homeless) and Lucy Newton (Legal Aid Society of the District of Columbia) to learn about the Social Security Administration's (SSA) two disability programs: Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI), including eligibility, benefits, and application tips and information on the transitional benefit of IDA.

*Friday, November 16, 2012 - Noon - 2 pm

FOOD ASSISTANCE: Supplemental Nutrition Assistance Program (SNAP) (formerly Food Stamps), WIC, and other food resources

In this tough economy, the need for food assistance continues to be high. Join Alexandra Ashbrook and Jessica Luna (DC Hunger Solutions) to learn about Supplemental Nutrition Assistance Program (SNAP) (formerly Food Stamps) and other nutrition programs to assist low income DC residents.

*Tuesday, November 27, 2012 - Noon - 2 pm

IMMIGRANT ELIGIBILITY FOR PUBLIC BENEFITS

Eligibility for public benefits for non-citizens is complicated. Su Sie Ju and Allison Miles-Lee (Bread for the City) will provide an introductory overview of immigrant eligibility for DC and federal public benefit programs. Anna Priddy (Whitman-Walker Health), an experienced immigration attorney, will provide an overview of common immigration statuses for DC area residents and the public charge ground of inadmissibility.

*Tuesday, December 4, 2012 - Noon - 2 pm

UNEMPLOYMENT INSURANCE BENEFITS

Unemployment Insurance (UI) is a critical wage-replacement benefit for workers who lose their jobs through no fault of their own. Join Heather Wydra (Whitman-Walker Health), Drake Hagner (Legal Aid Society of the District of Columbia), and Tonya Love (AFL-CIO Claimant Advocacy Program) (trainers subject to change) for an overview of eligibility and benefits under DC's unemployment insurance system as well as how unemployment interacts with other public benefits, such as TANF, Food Stamps, Medicaid, and SSI/SSDI.