

Re: 201305183J , Conley-Jackson Children

The Court bases all rulings and orders on the evidence presented in specific cases.

This case was dismissed 18 months ago based on the information provided by CPS, the Ad Litem, and the parents. My recollection is the evidence was insufficient from a legal standpoint to give temporary managing conservatorship to CPS for any factors other than neglectful supervision. I can't base removal on the criminal history of parties.

The facts of this particular case showed four instances where CPS ruled out or was unable to determine an immediate danger. Most importantly CPS based its original petition on a child sneaking out of the front door twice. They never stated that there was a belief the children were in immediate physical danger from any person or parent.

The Court can only remove children from their parents if there is an immediate risk of harm. CPS in open court requested removal and possession of the children based upon the mother's inability to provide adequate supervision. The fact that any parent has a criminal history does not automatically mean they are an immediate risk to their children.

The Court granted temporary managing conservatorship to CPS at the emergency hearing and the children were placed in foster care pending a show cause.

At that show cause, the Court learned that one or more of the children that had been removed by CPS were being subjected to physical abuse by the foster family. I signed a standing order that day which said no foster children under the jurisdiction of the 313<sup>th</sup> District Court shall be placed in the home of the foster family of Good Hearts Youth and Family Services Child Placing Agency. I further ordered any children at that home to immediately be removed.

At the show cause it was learned by the parties that the mother had corrected the issues that had necessitated removing the children. The mother had placed a new locking system and an alarm system on the door. No child

could leave the house without the alarm going off. This fact was verified by the ad litem and CPS caseworker before the court appearance. There was never mentioned any threats or present physical abuse on any party.

According to the docket sheet, CPS amended their pleading to work with the family in the home under a participation in services order and the Court ordered the following:

- 1) Give all meds to the children
- 2) Comply with doctors recommendation
- 3) Individual counseling
- 4) Family therapy for Nathaniel
- 5) RUA on parents
- 6) Participate in domestic violence counseling
- 7) And parents were to have their children returned subjected to visits and monitoring by CPS, ad litem and child advocate

At no time did CPS state that there was a current or immediate threat of violence from anyone. Throughout the participation in service case, CPS never claimed there was any danger to the children and CPS or Ad Litem was making weekly visits with the family.

Throughout the case, the parents participated in and completed their assigned service. The next court appearance was December, 2013 and nothing was said other than the parents were doing their services and the children were safe.

Finally, the case was set for review on March, 2014 some seven months of compliance and monitoring by the parties. The transcript indicates CPS, County Attorney, ad litem, mother, father, mother's attorney, father's attorney, father's attorney were present. There was a discussion off the record that the parties and CPS had told the Court the kids were home and doing well. The official record starts with the Court stating:

"Kids are home doing well, right?"

Ad Litem responds: "Yes."

The Court asked all the parties: "Everybody agrees with that?"

ALL RESPOND: "Yes."

The Court asks caseworker: "Caseworker, you agree with it?"

THE CASEWORKER: "Yes."

THE COURT: "You want to stay involved in her life because of what?"

THE CASEWORKER: "To ensure that mom completes service."

THE COURT: "And what do you want her to complete?"

THE CASEWORKER: "Counseling and parenting."

It should be noted that the mother had already completed parenting classes and that she had agreed to finish her counseling by May which in fact did occur with CPS monitoring until completion in May when they closed their case.

THE COURT: Okay. Ad Litem, what do you say, Donna?"

Ad Litem states: **"I don't see what else this family needs to prove to CPS."**

This statement from the Court's perspective should be relied upon. The ad litem visits the home. She communicates with the parents and CPS. She is aware of what each person has done to complete services. So upon relying on the Ad Litem the Court then states:

THE COURT: "Case is dismissed."

It is important to note again CPS continued to monitor and review the family until May 29, 2014 when they closed their file.

In summary, throughout the pendency of the case, CPS never claimed there was any domestic violence presently occurring. There was no immediate risk of harm on the children of the mother and then the only factor in giving CPS TMC was the neglectful supervision of one child.

While the tragic events that occurred some 18 months after the CPS case is horrific, neither CPS nor any attorney or the Court could have prevented it based upon the case presented in court.



Judge Glenn Devlin