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SUPREME COURT
FILED

October 4, 2019

OCT - 7 2019

Chief Justice Tani Gorre Cantil-Sakauye and Associate Justices
Supreme Court of the State of California
350 McAllister St.
San Francisco, CA 94102

Jorge Navarrete Clerk

Deputy

Re: *In re Caden C.* S255839 (First District Court of Appeal Nos. A153925, A154042; San Francisco No. JD153034)

Dear Honorable Chief Justice Cantil-Sakauye and Associate Justices:

I am appointed for minor Caden C. in the above-entitled juvenile appeal. I am writing to inform the Court of developments in the underlying juvenile dependency matter that may bear on this Court's consideration of the merits.

This Court generally reviews a judgment based on the record and evidence before the trial court at the time the court made the decision being challenged on appeal. However, "dependency counsel have a duty to bring to the appellate court's attention post-appellate rulings by the juvenile court that affect whether the appellate court can or should proceed to the merits" or that affect "the court's ability to grant effective relief." (*In re N.S.* (2016) 245 Cal.App.4th 53, 58.) In addition, the parties may bring post-judgment developments in a child's ongoing dependency proceeding to the attention of a reviewing court where the evidence, as is the case here, is not reasonably subject to dispute. (*In re Elise K.* (1982) 33 Cal.3d 138 [Supreme Court accepted parties' stipulation that minor was no longer adoptable due to her age].)

Recently, this Court considered post-appeal information in a dependency case, information that appellate counsel for the dependent child's father presented to the Court in letter form.¹ (*In re I.C.* (2018) 4 Cal.5th 869, 884, fn. 2.)

¹ The online docket entry for the case indicates that father's counsel informed the Court of post-judgment events by "letter" shortly before filing his reply brief on the merits.

Counsel's letter informed the Court about events that had occurred in the underlying dependency proceedings after judgment was entered, events which may have rendered the case moot. (*Ibid.*). After hearing from both parties, this Court found no jurisdictional defect and proceeded to decide the case on the merits. (*Ibid.*).

With the above authority in mind, and particularly in light of the fact that this case does not involve an appeal from an order terminating parental rights, and so the concerns about post-judgment evidence discussed in *In re Zeth S.* (2003) 31 Cal. 4th 396, 400, 413-414, *disapproving to the extent inconsistent*, *In re Jonathan M.* (1997) 53 Cal. App. 4th 1234, are not triggered here, I respectfully inform the Court of the following post-appeal developments.

As Caden's long-time appellate counsel, I regularly communicate with Caden's trial counsel, Mark Wasacz, who has represented Caden continuously since 2013.² On September 24, 2019, Mr. Wasacz provided me with copies of minute orders dated April 9, 2019 and July 31, 2019, orders the juvenile court entered in Caden's dependency case. Both orders are enclosed with this letter. The orders are not part of the record in this case because the juvenile court entered final judgment on March 12, 2018. As shown on the face of each order, Mr. Wasacz represented Caden on April 9, 2019 and July 31, 2019 and was present for the proceedings on each date. (*See*, 04-09-2019 Minute Order & 07-31-2019 Minute Order, enclosed.) Upon reviewing the orders, I obtained last week a reporter's transcript of the proceedings held on April 9, 2019.

My review of the two minute orders, the reporter's transcript of the April 9, 2019 juvenile court proceedings, and my communications with Mr. Wasacz, indicate that on the morning of April 9, 2019 the juvenile court—prior to the Court of Appeal's decision remanding to the juvenile court--set a new hearing under Welfare and Institutions Code section 366.26 for July 31, 2019.³ (04-09-2019 Minute Order.) The purpose of that hearing was to select a new permanent plan

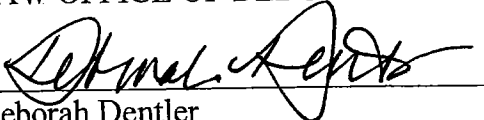
² The appellate record references the six years Mr. Wasacz has continuously represented Caden. (1 CT 362, 366; *In re Caden C.* (2019) 34 Cal.App.5th 87, 103.)

³ According to the reporter's transcript of the juvenile court proceeding held on April 9, 2019 (a transcript I obtained last week and which I have provided to all counsel), the proceeding concluded at 11:15 A.M. Less than two hours later (at 1:29 P.M.) I was notified by the First District Court of Appeal of the filing of its opinion reversing the lower court's judgment of March 12, 2018 and remanding for a new hearing under section 366.26.

for Caden. (*Ibid.*) Thus, it appears the juvenile court had sufficient reason to conclude from the evidence before it on April 9, 2019 that circumstances had changed sufficiently that a new permanent plan needed to be considered for Caden, and accordingly a new hearing was set to select a new permanent plan even before the Court of Appeal reversed and remanded. (*Ibid.*) The juvenile court ultimately did not hold the new section 366.26 hearing on July 31, 2019 because this Court granted the parents' petitions for review on July 24, 2019. (07-31-2019 Minute Order.) The juvenile court did, however, conduct a contested hearing on July 31, 2019 and considered two reports filed by the Agency.⁴ (*Ibid.*) These reports described Caden and Mother's current circumstances. (*Ibid.*) After considering the reports and hearing argument, the juvenile court restricted Mother's visitation to one supervised visit every other month, a reduction from the previous order that entitled Mother to monthly visits.⁵ (*Ibid.*)

In just the short period of time since the Court of Appeal decided the case, circumstances necessitated a restriction of her contact with Caden to one two-hour supervised visit every other month. The need for the juvenile court to continually review and revisit orders needed for Caden's protection throughout his childhood, if he remains in foster care rather than achieve permanency and stability by being adopted, exemplifies what concerned the Court of Appeal. For that reason, the Court should consider the post-appeal developments as being further evidence in support for affirmance. As discussed in the minor's brief on the merits, leaving Caden in foster care, a placement that necessitates periodic review hearings and proceedings triggered by requests for new orders when circumstances change and new orders are needed to protect Caden, means that his placement is continually subject to instability. If left in foster care, Caden faces a future of impermanence marked by court hearings that will stretch for the rest of his childhood.

Very truly yours,
LAW OFFICE OF DEBORAH DENTLER


Deborah Dentler
Counsel for Caden C.

Encl.

⁴ I have reviewed the two court reports and have provided them to all counsel and am happy to provide them with a copy of the reporter's transcript on request. I do not attach the court reports here because they are not official acts of the judicial branch. (See Code Civ. Proc., § 909.)

⁵ Mother was previously allowed to have one supervised two-hour visit per month. (4CT 1218-1222.)

FILED

SAN FRANCISCO SUPERIOR COURT, JUVENILE DIVISION
San Francisco County Superior Court
POST PERMANENT PLANNING HEARING
HON. ROCHELLE C. EAST

APR 11 2019 PAGE: 1

Reporter: LEWIS GILLIAN Clerk: PAULINA HUEI

Office: CLERK OF CAL DEBBAN

Date: 4/09/2019 Tuesday Dept: PP6

By: John Harbo
Deputy Clerk

6. 10:30 AM Case: JD15-3034 IN THE MATTER OF CADEN C-CASTILLO
Type: JUV 300 B W&I Date Filed: 09/16/13
Priority Info: 170.6CCP CHALLENGE MASSULLO
Event: 6 MONTH REVIEW - POST PERM PLAN;
387 S/PETN (6-14-16)

P= A

MINOR: COGGINS-CASTILLO, CADEN
DOB: 06/10/09

ATTY: WASACZ, MARK (P)

ASSOC: TUCKERSON, DERRICK
DSS: H124 JIMENEZ, SARAH
C.A.: CARBAJAL-STRAIT, DIANA M (P)
ATTY: REID, DENNIS (P)
ATTY: TENEYCK, JULIA (P)

PLFF:
MOTHER: COGGINS, CHRISTINE (P)
B/PTHR: CASTILLO, BRIAN
CARTKR: CARETAKER

DEP98

Others present: _____
Interpreter(s) _____
Requirements of Government Code 68561 regarding interpreter
qualifications have been met.

THE COURT HAS RECEIVED INTO EVIDENCE, READ AND CONSIDERED THE FOLLOWING IN
MAKING ITS FINDINGS AND ORDERS:

Social Report dated/filed: 2/15/19 Testimony Exhibits
Transitional Independent Living Plan (TILP) Updated
Addendum Report dated/filed 3/25/19 Case Plan
CASA Report dated/filed _____ Other briefing filed 3/27/19 & 4/2/19

IN ADDITION TO THE CAUSE APPEARING, THE COURT HEREBY MAKES THE FOLLOWING FINDINGS:
Notice has been provided as required by law.
Mother Father Legal Guardian(s) has willfully failed to appear.
Based on the Declaration of Due Diligence filed _____ reasonable
efforts were made to locate the Mother Father Guardian(s) and
her/his/their whereabouts are unknown.
The Child(ren) did not want to appear.
Reasonable services to the child(ren) have/have not been provided.

THE COURT HEREBY ORDERS:
387 W&I Petition filed _____ Sustained Dismissed Withdrawn
Allegation(s) _____ are true
Allegation(s) _____ are not true

JV-180/388 W&I Petition filed _____ Granted Denied Withdrawn

Vacate order placing the child(ren) in foster care with relative(s)
 with Legal Guardian(s) with non-related extended family member(s)
 Other _____
Legal Guardianship is hereby terminated

SAN FRANCISCO SUPERIOR COURT, JUVENILE DIVISION
POST PERMANENT PLANNING HEARING
HON. ROCHELLE C. EAST

PAGE: 2

or: 4/09/2019 Tuesday Dept: PP6

6. 10:30 AM Case: JD15-3034 IN THE MATTER OF CADEN C-CASTILLO

Dependency status is renewed reinstated on behalf of the child(ren)

The child(ren) is/are returned to the Mother Father Guardian(s)
under the supervision of the Department of Human Services.
 Family maintenance/Dismissal services are attached.

The child(ren) to remain with the Legal Guardian(s) _____
under the supervision of the Department of Human Services.

The child(ren) to remain in the care and custody of the Department of
Human Services for placement, planning and supervision and the Court
approves the necessary and appropriate placement as follows:
 with relative(s) with a non-related extended family member (NREFM)
 in foster care group home/Aggregate placement Transitional Living
 Residential Treatment with Temporary Legal Guardian(s) _____
 under ICPC supervision in home of _____

The child(ren)'s placement is necessary The child(ren)'s current
placement is appropriate.

The county agency has complied with the case plan by making reasonable
efforts, including whatever steps are necessary to finalize the permanent
plan.

The county agency has complied with the case plan by making reasonable
efforts, including ongoing and intensive efforts to finalize the
permanent plan.

This order is Nunc Pro Tunc to date: _____

THE PERMANENT PLAN SELECTED BELOW IS APPROPRIATE AND ORDERED:

Adoption as ordered at the hearing held under W&I Code 366.26 or 727.31
 Legal Guardianship as ordered at the hearing held under W&I Code 366.26
or 727.31

Placement in Foster care Relative Care Non Related extended family
member care (NREFM) Other _____ with a permanent plan of:
 Return home Adoption Tribal customary adoption of Indian child(ren)
 Legal Guardianship

Placement with a fit & willing relative

Another planned permanent living arrangement (APPLA).

There is a compelling reason to determine that it is not in the
child's(ren's) best interest to return home, be placed for adoption, be
placed for tribal customary adoption, or be placed with a fit and
willing relative.

The likely date by which the permanent plan will be achieved is _____

The Court finds by clear and convincing evidence, that at this time there
is a compelling reason that a 366.26 implementation hearing is not in the
best interest of because:

The child(ren) is not/are not a proper subject(s) for adoption, and no

SAN FRANCISCO SUPERIOR COURT, JUVENILE DIVISION
POST PERMANENT PLANNING HEARING
HON. ROCHELLE C. EAST

PAGE: 3

For: 4/09/2019 Tuesday Dept: PP6

6. 10:30 AM Case: JD15-3034 IN THE MATTER OF CADEN C-CASTILLO

one is willing to accept legal guardianship.

] The Court finds that the services set forth in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.

] Judicial Council Attachment JV460 Additional Findings and Orders For a Child Approaching Majority is attached.

The matter is referred to the Human Service Agency for the preparation of an assessment report on the child.

Judicial Council form JV-820 Notice of Intent to File Writ Petition

Handed to mother father in Court on 4/9/19

Mailed to last known address of mother father on 4/9/19

The whereabouts of the Mother Father are unknown

VISITATION:

Mother Father to receive reasonable visitation as set forth in the case plan. Supervised Unsupervised

] The Agency has the discretion to move visits to unsupervised overnight with _____ hour notice to the minor's Counsel.

The Court orders the following visitation visitation shall remain as previously ordered.

Mother Father not to receive visitation until further order of the Court.

] Pursuant to WIC 14717.1(5)(C) THE COURT HEREBY ORDERS that the San Francisco Human Services Agency/Juvenile Probation Department is authorized to waive presumptive transfer of minor's mental health services to the county of placement.

] The Court appoints a responsible adult as the educational rights holder for the child(ren) and is authorized to make Educational decisions for the child to the extent permitted by law.

] Order JV-535 signed by the Court.

] The Court recommends _____ as the Educational Rights Holder.

] The address of the legal parent is verified, and the legal address of the child(ren) is found to be in the County of _____

] All Petitions, Findings, Orders and Dependency ordered transferred to said County.

] Petition is ordered dismissed.

as it relates to _____

] Jurisdiction of the Court terminated.

] Other Orders: _____

SAN FRANCISCO SUPERIOR COURT, JUVENILE DIVISION
POST PERMANENT PLANNING HEARING
HON. ROCHELLE C. EAST

PAGE: 4

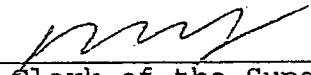
Date: 4/09/2019 Tuesday Dept: PP6

6. 10:30 AM Case: JD15-3034 IN THE MATTER OF CADEN C-CASTILLO


THE MATTER IS CONTINUED TO: Dept: 406 Time: 8:45am Time Waived
 Six-Month Review Non-Minor Dependent Status Review
 Progress Report Re: _____
 7/31/19 366.26 Implementation Hearing
 Settlement Conference Mediation Contested Hearing
Re: _____
 Other: _____

Mother Father Other _____ order to appear
 Mother Father Other _____ appearance is waived

Date: APR 09 2019



Deputy Clerk of the Superior Court



Judge/Judge Pro Tem of the Superior Court
Rochelle C. East

SAN FRANCISCO SUPERIOR COURT, JUVENILE DIVISION
MINUTE SHEET
HON. ROCHELLE C. EAST

FILED
San Francisco County Superior Court
PAGE: 1

Reporter: LEWIS GILLIAN

Clerk: GARY FELICIANO

AUG 02 2019
Officer: JUDY CHU

CLERK OF THE COURT

By: *John Hardesty*
Deputy Clerk

For: 7/31/2019 Wednesday Dept: 366

4. 8:45 AM Case: JD15-3034 IN THE MATTER OF CADEN C-CASTILLO
Type: JUV 300 B W&I Date Filed: 09/16/13
Priority Info: 170.6CCP CHALLENGE MASSULLO
Event: IMPLEMENTATION HEARING - 366.26

P= A

MINOR: COGGINS-CASTILLO, CADEN
DOB: 06/10/09

ATTY: WASACZ, MARK *(P)*

ASSOC: TUCKERSON, DERRICK

DSS: H124 JIMENEZ, SARAH

C.A.: CARBAJAL-STRAIT, DIANA M *(P)*

ATTY: REID, DENNIS *(P)*

ATTY: TENEYCK, JULIA *(P)*

PLFF:

MOTHER: COGGINS, CHRISTINE *(P)*

B/FTHR: CASTILLO, BRIAN

CARTKR: CARETAKER

THE COURT MAKES THE FOLLOWING ORDER:

Notice has been provided as required by law.

Father Brian Castillo has willfully failed to appear without prejudice.

Mother's visitation with minor shall be reduced to one visit every other month.

Dependency status is renewed on behalf of the minor.

MATTER CONTINUED TO:

10/7/19 at 9:00am in Dept. 406 for a Progress Report Hearing re: Status of Remittitur. Father ordered to appear through counsel. Mother ordered to appear.

Dated: July 31, 2019

[Signature]
DEPUTY CLERK OF THE SUPERIOR COURT

[Signature]
JUDGE OF THE SUPERIOR COURT
ROCHELLE C. EAST

PROOF OF SERVICE

In re Caden C., S255839

STATE OF CALIFORNIA)

COUNTY OF LOS ANGELES)

I am employed in the Law Office of Deborah Dentler in the County of Los Angeles, State of California. The business address is 510 So. Marengo Ave., Pasadena, California 91101. I am over the age of eighteen and not a party to the within action. On October 4, 2019, I served the foregoing document described as

RESPONDENT MINOR'S LETTER TO CA SUPREME COURT (DATED OCT. 4, 2019) RE: POST-APPEAL DEVELOPMENTS

on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows and/or by e-mailing a digital copy to the recipient's authorized e-service address as follows:

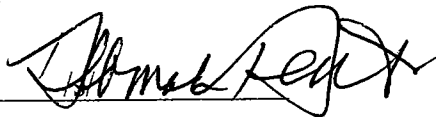
[SEE SERVICE LIST, ATTACHED]

(BY MAIL) I caused such envelope with postage thereon fully prepaid to be placed in the mail on October 4, 2019 at Pasadena, California.

(By EMAIL) I e-mailed an electronic copy on October 4, 2019 to the authorized e-service addresses shown.

I declare under penalty under the laws of the State of California that the above is true and correct.

By _____



DEBORAH DENTLER

SERVICE LIST

In re Caden C. S255839

Superior Court of California, County of San Francisco
Hon. Monica Wiley
400 McAllister St
San Francisco, CA 94102

Court of Appeal, First District, Division One
350 McAllister St.
San Francisco, CA 94102

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Leslie A. Barry [mother C.C.'s counsel]
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Sixth District Appellate Project
eservice@fdap.org