

THE COUNCIL QUARTERLY

News and Views from the Council of Juvenile Court Judges of Georgia

Riding the Pine A Letter from the President

By Honorable Cliff Jolliff
Judge, Juvenile Court of Hall
and Dawson Counties

It is with great pleasure that I address you all in our newsletter. I thank you for giving me the opportunity to serve as your President for this year and I look forward to working with all of you.

As we discussed at our Spring seminar, the main focus of my presidency will be to carry on the great work of my predecessors on HB 182. We have already begun the work on that legislation for the upcoming year by meeting with the superior court judges, Chief Justice Benham, Representative Jim Martin, Lt. Governor Mark Taylor, and Chief of Staff to Governor Barnes, Mr. Bobby Kahn.

I would also like to follow up on the work of the Council last year relating to legislation that would allow our judges to set child support in deprivation orders. We are in the process of meeting with the child support specialists from the Department of Human Resources and hope to arrive at a draft that will be palatable to them.

I am excited about the upcoming year. Our Council is in good standing due to the tremendous and tireless efforts of the presidents before me. I hope to carry this success forward during my tenure and I look forward to seeing all of you at the Fall seminar in my home county.

Case Law Update

By Honorable Robert Rodatus
Judge, Juvenile Court of
Gwinnett County

The following cases can be found in the weekly summary of opinions in the Fulton County Daily Report. All citations are to the Appellate Case Number and to that publication.

Child Support

A private custody agreement between the parents providing that neither would pay the other support for the child that each of them had in their custody does not prevent DHR from seeking reimbursement from the non-custodial parent for public assistance payments made to a parent on a child's behalf. Georgia Department of Human Resources v. Smith, A99A0456, 99 FCDR 1998 (5/4/99).

Termination

The court affirmed the termination of parental rights based upon the evidence of the mother's non-compliance with the case plan, her failure to maintain a stable home or pay child support, and her attempted suicide two weeks before the termination hearing. Also noted were the children's social and behavioral problems, which required stable homes and close supervision, and the fact that they were thriving in foster care. In the Interest of: C. N. H., et al., A99A1096, 99 FCDR 2000 (5/11/99).

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Congratulations and Acknowledgements

A reception was held June 8, 1999 to honor Judge **Martha K. Glaze** upon her retirement after 22 years as a juvenile court judge in Clayton County. Our best wishes to Judge **Glaze**, who will continue to serve in senior status.

The National Council of Juvenile and Family Court Judges held their 62nd Annual Conference in Chicago, Illinois from July 18-21, 1999. The conference was attended by Judges **John W. Beam, Jr.**, **Warner L. Kennon**, **Martha K. Glaze**, and **R. Michael Key**, and Council staff members **Sandy Torres** and **Robert Bassett**. Congratulations to Judge **R. Michael Key**, who was appointed a member of the National Council's Board of Trustees.

Judge **Aaron Cohn** was awarded the Distinguished Service Scroll, an honor presented annually by the University of Georgia Law School Alumni Association.

Congratulations to author and Gwinnett County Juvenile Court Administrator **Jackie White**. Her book "Whisper to the Black Candle: Voodoo, Murder and the Case of Anjette Lyles" is becoming a bestseller.

The Council is pleased to welcome new Field Staff Representatives **Jody Bernard** and **Ursula Davis**.

Termination

Termination was affirmed based on evidence that the mother voluntarily gave up custody, visited the child infrequently, failed to pay support or meet the obligations of a reunification plan, and had no stable home or employment history. The Court noted that the child had bonded with the foster parents with whom he had been living for two years, and who had expressed an interest in adopting him.

In the Interest of: K. D. S., A99A0715, 99 FCDR 2002 (5/3/99).

Termination

The first issue addressed in this case was whether the father's voluntary surrender of his parental rights in favor of adoption by his parents could thwart the Department's attempt to terminate his rights. The mother had voluntarily surrendered her rights but then withdrew her surrender. Since the adoption could not take place without the mother's surrender, the Juvenile Court did not lose jurisdiction. Further, the surrender of parental rights was a subterfuge, and so could not preclude the Court from proceeding with the termination. Finally, the Court did not abuse its discretion in not allowing the father to review psychological profiles of himself and the children since they were not used in the termination proceeding. The evidence as to both the mother and father supported termination of their parental rights.

In the Interest of: A. N. M., A99A0632, A99A0721, 99 FCDR 2003 (5/10/99).

Custody / Child Support

The mother filed a paternity action and the father counterclaimed seeking custody. Although custody can only be an issue after legitimation has been determined, both parties by their actions consented to custody being determined in this case. In the same way, the mother waived any claim she had that venue to determine custody was not proper. The trial court appropriately entered a family violence protective order, but the Court of Appeals vacated and remanded the order to require greater specificity. Finally, the trial court impermissibly departed from the child support guidelines in setting support.

Ganny v. Ganny, A99A0016, 99 FCDR 2178 (5/18/99).

Committee Updates

Benchbook	Permanency Planning	Grants	Legislative
<p>Since the Council's Spring Seminar the Benchbook has been updated to include a chapter on the Georgia Judicial Retirement System, by Judge Herbert M. Crane, Jr., and a chapter on Mental Competency Hearings, by Judge George Blau. An update to the Georgia Trial Court Desktop CD-rom will be available in September. Please contact Judge George J. Hearn, III, or Sandra Torres with suggestions for additions to the Benchbook.</p>	<p>Council President Cliff L. Jolliff has appointed Judge Stephen S. Goss as the new Chairperson for the Permanency Planning Committee. Judge Goss held a Permanency Planning Committee Meeting on August 27, 1999, to outline the direction of the committee for this year. Many thanks to former chairperson Judge R. Michael Key, who will continue to work closely with the committee. All Council members are invited to attend the next meeting.</p>	<p>Grants Administrator Benita Baldwin Brown conducted workshops for those interested in applying for funds from the Purchase of Services for Juvenile Offenders program. The workshops were held during the first week of August, 1999, in Tifton, Savannah, Macon, Gainesville, and Atlanta. The deadline for grant applications was August 13, 1999, and award notifications will be sent September 17, 1999. Funded programs may begin October 1, 1999.</p>	<p>A subcommittee of the House Judiciary Committee studying the juvenile justice system in Georgia has met three times since July and has entertained testimony from various groups and individuals. In addition to receiving testimony from Judge Robin Nash, Chair of the Council's Legislative Committee, the subcommittee also received comments from Executive Director Eric J. John, Judges Sharon Hill and Karen Galvin,</p> <p>(continued on page 3)</p>

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Termination

Termination of parental rights was supported in this case by evidence that the mother lived in a home with no electricity or water, that she failed to pay child support or attend drug and alcohol treatment, and that she had not found a permanent job.

In the Interest of: S. C. N. H., A99A0241, 99 FCDR 2181 (5/19/99).

Custody / Legitimation

A Georgia court's award of custody was reversed on the basis that the court had no jurisdiction. The Georgia suit was one to legitimate a child who had greater contacts with Florida than Georgia. Under the UCCJA, custody matters are heard in the child's home state. The substantial evidence concerning the child's welfare was in Florida rather than in Georgia.

Mezquita v. Campbell, A99A0527, 99 FCDR 2341 (6/2/99).

Termination

Termination of parental rights was supported in this case by evidence that the mother was a paranoid schizophrenic, had tested positive for drugs and alcohol while pregnant, and lived in a home with open gas lines and no running water.

In Re: C. D. A., A99A0625, 99 FCDR 2344 (6/2/99).

Termination

Termination of parental rights was supported in this case by evidence that the father denied paternity; that cocaine was found in the child's system at birth; and that the mother had been incarcerated twice since the child's birth, lived in unsafe and unsanitary conditions, and had only infrequent visits with the child after her release from jail.

In the Interest of: C. D. P., A99A0503, 99 FCDR 2346 (6/2/99).

Termination

Termination of parental rights was supported in this case by evidence that the mother pled guilty to cruelty to children for scalding the ten month old child's feet, failed to meet reunification plan requirements, and had been violent and abusive toward caseworkers. The court also noted that the children suffered from medical and behavioral problems.

In the Interest of: I. S. and G. S., A99A0489, 99 FCDR 2347 (5/27/99).

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Professor **Jan Pratt** of Emory Law School, Commissioner **Orlando Martinez** of the Georgia Department of Juvenile Justice, and various advocacy groups.

The subcommittee intends to continue working through the summer and fall leading up to the 2000 Legislative Session. The Chair of the subcommittee, Honorable **Mary Squires** of Gwinnett County, indicated that the main focus this year will be on reorganizing the juvenile code, based in part on the materials the Council provided to her. She does not intend to offer any substantive changes in the juvenile code within this legislation for fear that it would be confusing to reorganize the juvenile code and to make substantive changes to the law in the same piece of legislation. It is her goal to have her study subcommittee become a standing subcommittee of the House Judiciary Committee so that all pieces of juvenile court legislation will be sent to her subcommittee for study, comments, and recommendations.

If you have any questions about the work of the study committee, please call **Eric J. John** at (404) 657-5020.

E-MAIL UPDATE: As we continue working to develop an accurate list of e-mail addresses, please note the following additions and corrections to the list you received in June:

- Judge Cliff L. Jolliff - cjolliff@juvenilecourt@hallcounty.org
- Judge Jackson Harris - judge@juvenilecourt.com
- Judge George Blau - gblau@mindspring.com
- Judge Stephen Franzen - sf@cc.gwinnett.ga.us
- Judge Herbert E. Kernaghan, Jr. - kernaghanh@aol.com
- Judge John W. Beam - jwbeam@wpc.co.chatham.ga.us
- Judge Tracy Graham - tracedden@netscape.net
- Judge Sammy Jones - jonessj@mindspring.com
- Judge Tiffany Upshaw - T.Upshaw@hotmail.com

IF YOU HAVE FURTHER ADDITIONS OR CORRECTIONS, PLEASE CONTACT LYNN BREWER AT lynbrewer@mindspring.com.



"We'll have no more such childish behavior in this court. . . ."

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Custody / Jurisdiction

In a suit brought by the mother for modification of child support, the father counterclaimed for change of custody. The counterclaim was properly dismissed since actions seeking a change in custody must be brought in the county of residence of the child's legal guardian. Wilson v. Baldwin, A99A0048, 99 FCDR 2434 (6/7/99).

Termination

Termination of parental rights was supported in this case by evidence that the children were filthy, unsupervised, poorly clothed and improperly fed, and by evidence that the father encouraged their mother's prostitution in their presence. In the Interest of: D. L. T., A99A0617, 99 FCDR 2435 (6/9/99).

Custody / Jurisdiction

A Georgia court with jurisdiction in a divorce and custody action may not decline to exercise jurisdiction with regard to the custody matter on the basis of forum non conveniens, absent a finding that it is in the interest of the child that another state assume jurisdiction. In this case, the court made no such determination, and also made no inquiry as to whether the law of the other state would allow a court there to exercise jurisdiction. Finally, even if the Georgia court had been correct in declining jurisdiction with regard custody, it would still have had jurisdiction of the divorce action. Patterson v. Patterson, S99A0244, 99 FCDR 2500 (7/6/99).

Divorce

Even though an attorney may be a third party beneficiary of an oral settlement agreement, the oral agreement may not be enforced over a subsequent written agreement reached by the parties after the lawyer's termination. Edelkind v. Boudreaux, S99A0520, 99 FCDR 2501 (7/6/99).

**Upcoming
Events:**

**Children
With Special
Needs
Committee
Meeting
9/21
Atlanta, GA**

**Fall
Planning
Conference
9/ 23 - 9/24
Stone
Mountain,
GA**

**Fall Seminar
10/31 - 11/3
Lake Lanier
Islands, GA**

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