

# Missouri Juvenile Justice Association

Juvenile Law Update  
Fall 2020

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# 2020 CASES

# *K.A.W.*, ED107690

- **Transfer from one circuit to another prior to disposition did not prevent the receiving court from filing an amended petition charging new counts from a separate incident where juvenile received sufficient notice and due process.**

# *D.G.E., WD82856*

- Adjudication reversed and juvenile is discharged from the effects of the disposition where:
  - case involved allegation that juvenile sent picture of his penis to victim
  - the juvenile officer failed to prove beyond a reasonable doubt that the juvenile exposed *his* genitals to the victim.

# *I.D.*, WD83393

- *Doli incapax* is not applied in juvenile cases as its application would frustrate the purposes of the juvenile code.
- The correct standard of care is the children's standard of care, which is that of a child of "the same age, capacity, and experience."

# *L.L. & L.L., WD83257*

- **Appeal by grandmother of the denial of her right to intervene is an interlocutory order and an immediate appeal is not authorized. Appeal dismissed.**

# *J.M., ED107379*

- **Search of juvenile's bag by school officials was reasonable under the standard for suspicion-based searches by school officials**
  - **There was individual suspicion that juvenile had violated school rules or law**
  - **Search was justified at its inception and**
  - **Was conducted in a reasonable manner related in scope to the circumstances.**
- **Exclusion of testimony of juvenile's witness was not error**
  - **witness was not disclosed until five days after the due date**
  - **juvenile knew of the witness and offered no reasonable justification for the failure to disclose the witness**

# *D.E.G., SC97869*

- **Certification decision transferring juvenile to a court of general jurisdiction is now immediately appealable after Supreme Court overturns nearly 50 years of precedent.**

# ***B.O., WD82883***

- **Case is remanded for dispositional hearing where**
  - **Juvenile is on probation for status offenses**
  - **Juvenile officer files motion to modify alleging misdemeanor crimes**
  - **After adjudication hearing, the court did not conduct a dispositional hearing before committing juvenile to DYS**
- **Dispositional hearings are required if allegations of either petition or motion to modify are proven**
- **Case is remanded for dispositional hearing only as evidence was sufficient to support adjudication for the crimes alleged in the motion to modify.**

# T.G., WD83608

- **Adjudication reversed where the evidence was insufficient to establish that the juvenile's possession of a deer was illegal.**
  - **The family court found that T.G. committed the class A misdemeanor of illegally possessing a deer by attempting to load the deer in a blue Chevrolet Blazer.**
    - **T.G. was one of three people trying to load the deer into a vehicle.**
    - **Of the other two individuals, one pleaded guilty to shooting the deer (the deer was shot only once), and the other pleaded guilty to driving the vehicle.**
    - **The evidence against T.G. was that the deer had not been tagged or telechecked. The regulations allow a hunter until 10:00 PM to telecheck the deer, so the time for telecheck had not yet expired. The evidence showed that a permit had not been notched. The court holds the evidence was insufficient to establish that possession of the deer by T.G. was illegal. Reversed.**

# *S.M.B.*, SDSD35941 and SD36047

- Interlocutory appeal following denial of a motion to intervene is dismissed because there is no special statute granting a right to immediate appeal in such cases.

## *P.D.W., WD83186*

- Where the child was returned to parents after they appealed, but before the case was argued and submitted to the court of appeals, their appeal does not fall into the two exceptions to the mootness doctrine. The court declines to extend the “collateral consequences” exception beyond delinquency cases. Appeal dismissed.

# *A.R.F., SD36198*

- **The K.A.W. future harm analysis is not a separate essential element of termination apart from the grounds for termination and the best interests determination, but is to be considered and reviewed within the context of the evidentiary support for the trial court's determination as to the existence of the ground or the best interest determination.**

# *L.J.H.*, WD83213

- **TPR under 211.447.5(1)(b) affirmed.**
  - **Child for purposes of this section is defined as over one year of age.**
  - **Petition was filed before child was one year old.**
  - **The definition is not an element of the offense, but a “statutory prerequisite,” and as such, it is an affirmative defense subject to waiver.**
  - **Mother failed to raise the issue until appeal. Thus, the issue was waived.**

# *D.L.S. III AND D.L.S., WD83518*

- **Termination affirmed**
  - There was sufficient evidence, independent of the court's reliance on evidence of Father's emotional bond, which is not an element of the ground for TPR, to support the ground of abuse/neglect.
  - As there was sufficient evidence supporting at least one ground, the court need not consider allegations of error related to another ground for TPR.

# S.S., SD36180 (FATHER)

- **TPR affirmed on ground of failure to rectify where:**
  - **father, facing criminal charges for incest committed against the child's older sister, refused to sign service agreement, refused services, and offered no evidence at trial.**
  - **Father's arguments that his constitutional right not to testify and to maintain a relationship with his child weighed against termination were rejected.**

# S.S., SD36181 (MOTHER)

- **Termination of mother's parental rights for failure to rectify is affirmed where:**
  - **Father sexually assaulted child's older sister,**
  - **Mother believed father and said child could not live with her because she was choosing to stay with father, and**
  - **Because father was under a no-contact order.**
  - **Mother could not care for child as long as father is in the home, and mother chose to remain in the home with father.**
- **Grounds which led to assumption of jurisdiction still persist and reunification not likely within any ascertainable period of time.**

## *B.D.M. and J.D.M., SD36009*

- **TPR affirmed where father failed to resolve his drug issues, failed to avail himself of services, never got suitable living arrangements, canceled or failed to show up for visits by the caseworker, and never graduated from supervised visits.**

## *P.W.W., Jr., SD36538*

- **Mother challenges only the best interests finding of the TPR judgment.**
- **There was sufficient evidence supporting the finding that TPR was in the best interests of the child.**

*T.T.O., J.J.O., T.N.O, J.A.O., C.D.O.,  
Ill, and T.M.O., SD36389, 36390,  
36391, 36392, 36393, 36394*

- Father appeals the finding of best interest in termination of parental rights case. TPR Affirmed where:
  - Father partially complied with treatment plan, but
  - provided no support,
  - had no adequate housing or income,
  - declined certain visitation,
  - had no relationship with the children.
  - Two of the children suffered from post-traumatic stress as a result of Mother's and Father's actions.
  - Father had pending DWI and had not completed drug court or family treatment court.
  - No additional services could be offered. *In Interest of T.T.O., J.J.O., T.N.O, J.A.O., C.D.O., Ill, and T.M.O., SD36389, 36390, 36391, 36392, 36393, 36394 (Mo.App.S.D. 4-21-2020).*

# *B.E.D.*, SD36546

- **Determination that TPR is in the best interests of the child is not an abuse of discretion where**
  - **there are no emotional ties,**
  - **there has been no financial or in-kind support,**
  - **where there has been no in-person contact, and**
  - **where additional services were unlikely to bring about a lasting adjustment that would enable reunification.**

# *K.A.F., SD36044*

- **Adoption affirmed where father's claim of ineffective assistance of counsel is rejected.**

# *E.B.M., WD83612*

- **The trial court's decision overruling Father's motion for new trial after the TPR judgment, based upon newly discovered evidence, is reversed and the case is remanded where:**
  - **the ICPC home study, which was received after the trial, was favorable to Father and both Indiana and Missouri recommended the child be placed with Father in Indiana.**

# *Adoption of H.D.D., SD36035*

- **Adoption reversed where, during the six months prior to filing, mother requested visits, but her requests were ignored by father, mother paid support, provided health insurance, and filed a motion to modify.**

# *20th Judicial Circuit v. Franklin Co. Comm., ED108658*

- **Writ of mandamus made permanent requiring county commission to pay and appropriate money pursuant to circuit court's budget estimate where commission did not request review of the budget estimate by the Judicial Finance Commission.**

Thank you!