

*Trial Court of the Commonwealth
Juvenile Court Department
Suffolk County Division
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FROM: Honorable Joseph Johnston

DATE: March 25, 2014

RE: Care and Protection of Justina Pelletier

NO. OF PAGES INCLUDING COVER SHEET:

MESSAGE:

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COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

JUVENILE COURT DEPARTMENT
BOSTON DIVISION
DOCKET NO. 13CP0034BO

IN RE: CARE AND PROTECTION OF
JUSTINA PELLETIER (DOB 05/24/98)

DISPOSITION ORDER

A. EFFORTS TO RETURN JUSTINA TO CONNECTICUT

1. Since this case was filed over thirteen months ago this court has made considerable efforts to return Justina to her home state of Connecticut. From the very first day this court inquired of the Massachusetts Department of Children and Families ("MA DCF") regarding their efforts to engage the Connecticut Department of Children and Families ("CT DCF"). It was abundantly clear to this court then, as it is now, that the CT DCF should have immediately accepted this case concerning Justina, a life-long resident of Connecticut.
2. At the outset, the MA DCF filed a report of neglect of Justina by her parents with the CT DCF. The MA DCF continually represented to this court that the CT DCF stated that matter was still under investigation. Regrettably, six months after this care and protection petition was filed, the MA DCF represented to this court that the CT DCF decided that it would not be taking any action. This court then determined that it had no alternative but to continue jurisdiction of this matter.
3. There were efforts by the MA DCF early into this case to place Justina in a program located approximately twenty minutes from her home in Connecticut. The program was identified as an appropriate placement to meet Justina's needs and would have been able to provide services for the parents. Unfortunately, the Connecticut program declined to accept Justina because Mr. Pelletier told the program he would sue the program if Justina was placed there. This program continues to decline to accept Justina. Other programs refused to accept Justina due to concerns of litigation by Justina's parents and the confidentiality of other clients.
4. At trial there was extensive psychiatric and medical testimony. Voluminous psychiatric and medical records were entered in evidence. Based on credible psychiatric and medical evidence this court has found that Justina suffers from a persistent and severe Somatic Symptom Disorder. On December 20, 2013, this court found the MA DCF sustained its burden by clear and convincing evidence that Justina Pelletier is a child in need of care and protection pursuant to G.L. c. 119, §§ 24-26 due to the conduct and inability of her parents, Linda Pelletier and Lou Pelletier, to provide for Justina's necessary and proper physical, mental, and emotional development.

5. Also on December 20, 2013, this court appointed a best interest Guardian *ad litem* ("GAL") for Justina. His investigation has included travelling to Connecticut to assess possible placement of Justina in her Connecticut home; investigating other placement options for Justina in Connecticut; meeting with the parents, CT DCF representatives, and other collaterals; evaluating the extent and appropriateness of services and supervision by the CT DCF and the MA DCF; and making a recommendation for custody consistent with the best interest of Justina.
6. Also on December 20, 2013, and in an effort to again request that the CT DCF take action in Justina's case, this court took the highly unusual step of ordering the MA DCF to furnish copies of certain exhibits from the trial to the CT DCF Commissioner and the CT Child Advocate.
7. On December 26, 2013, this court requested directly of the CT DCF, pursuant to the Interstate Compact for the Placement of Children, that they investigate the potential placement of Justina in the conditional custody of her parents. Two weeks later and eleven months after being notified of Justina's case, this court was informed by the CT DCF that it recently "substantiated the parents for neglect" of Justina and that return of custody of Justina to her parents was not in her best interest.
8. Based on these determinations by the CT DCF, albeit long overdue, this court had every expectation that the CT DCF would accept this case and file in the Connecticut court. This court indicated in a subsequent order that it would assist in the transfer of the case to Connecticut and pending that transfer, would ensure that Justina received appropriate medical and psychiatric care. This court ordered a meeting to take place with all stakeholders, including medical and psychiatric providers, the MA DCF, the CT DCF, Justina's parents, and counsel. The purpose was to work towards returning Justina to Connecticut and to provide for a smooth transition of services with a goal of reunification of Justina with her parents and family.
9. The CT DCF again declined to take any steps to assume responsibility of Justina's case and declined to file in the Connecticut court.
10. At a hearing on February 4, 2014, all parties agreed that this court contact the judge in the Connecticut court pursuant to the Uniform Child Custody Jurisdiction Act to request the Connecticut court exercise jurisdiction over this matter. The parties, including the parents, also agreed that the CT DCF be granted temporary custody of Justina pending further hearing in Connecticut. On February 14, 2014, this court sent a comprehensive request to the Connecticut court judges requesting that the Connecticut court exercise jurisdiction. Included with the request were the report of the Court Investigator; reports of the GAL; a detailed treatment summary from Children's Hospital Boston; and this court's adjudications, findings, and orders. The Connecticut court declined to exercise jurisdiction citing, *inter alia*, that there is no action pending in Connecticut nor is there one contemplated.

B. CUSTODY

11. Justina was ready for discharge from the Children's Hospital Boston psychiatric unit in June 2013. She remained there an additional seven months because efforts by the MA DCF to locate a suitable placement for Justina were significantly hampered by the parents. While Justina was at Children's Hospital, the parents were verbally abusive to

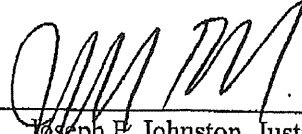
Justina's hospital providers. Family members of other patients complained that Justina's parents stated their children were being kidnapped by Children's Hospital. The parents threatened to have hospital personnel's licenses revoked. They threatened to call the F.B.I. They called hospital personnel "Nazis" and claimed the hospital was punishing and killing Justina. Efforts by hospital clinicians to work with the parents were futile and never went anywhere.

12. Since the adjudication on December 20, 2013, this court has considered granting conditional custody to Justina's parents. Unfortunately, there has not been any progress by the parents. Rather, the parents, either directly or indirectly, continue to engage in very concerning conduct that does not give this court any confidence they will comply with conditions of custody. Recently, the MA DCF social worker has been removed from the case due to allegations that Mr. Pelletier threatened him. Visits between Justina and her parents were postponed and rescheduled at a different location because media stations were broadcasting reports outside the DCF office at the time of the visit. It was reported in the media that Justina would be moved to a foster home through a private social service agency. As a result of the media report, that agency withdrew its agreement to place Justina in one of their foster home placements. This is yet another example of the parents, either directly or indirectly, impeding progress in this case. Instead of engaging in quality visits with Justina, the parents use profanity directed at the MA DCF personnel in Justina's presence. There is absolutely no meaningful dialogue by the parents to work towards reunification.
13. At the February 4, 2014 hearing, the parents were in agreement with a temporary custody order with the CT DCF and placement by the CT DCF in a Connecticut program. Then, in pleadings filed by Justina's counsel, it was represented that on March 14, 2014 an attorney from Mathew Staver's office at Liberty Counsel contacted her and indicated the parents would be taking a radically different position. Specifically, the parents would not agree to any placement in Connecticut other than home and would not agree to any further involvement of the MA DCF or the CT DCF with the family. Then on March 17, 2014, the parents filed a joint proposed conditional custody order with Justina's counsel. These vacillating positions concerning issues of utmost importance are very troubling to this court.
14. I credit the determinations by the MA DCF, the CT DCF, and the GAL that placement of Justina in the conditional custody of her parents is not in her best interest at this time. Therefore, I grant the MA DCF custody of Justina subject to the parties' right to a review and redetermination pursuant to G.L. c. 119, §26 six months from the adjudication on December 20, 2013.
15. Although psychological and clinical evaluations of the parents are necessary, I decline to order that these evaluations be conducted by the Boston Juvenile Court Clinic. These are evaluations, along with other services, that must be coordinated by the CT DCF for this Connecticut family.

16. Heightened efforts must be undertaken by the MA DCF to place Justina in Connecticut and to transfer both the clinical and legal case to Connecticut. This court continues to stand ready to assist in the return of Justina to her home state of Connecticut.

Dated:

MARCH 25, 2014



Joseph F. Johnston, Justice
Juvenile Court Department