APPELLATE DEFENDERS, INC.

RECENT TRENDS IN DEPENDENCY CASE LAW

April 2017 through Sept 2017

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JURISDICTION

In re R.T. (2017) 3 Cal.5th 622 (Supreme Court) [Los Angeles]
In determining whether a parent must be at fault in order for the dependency court may impose jurisdiction, the Supreme Court held that parental culpability is not required thus disapproving *In re Precious D.* (2010) 189 Cal.App.4th 1251 and abrogating *In re Rocco M.* (1991) 1 Cal.App.4th 814. Best known for providing the 3 elements necessary to determine whether a child comes within section 300, subd. (b), *Rocco M*. required (1) neglectful conduct by a parent in one of the specific forms, (2) causation, and (3) serious physical harm or risk of such harm. This appeals involves a 17 ½ year old child who was been running away since she was 14 years old. R.T. has not attended school, falsely reported abuse by mother, gave birth to a child at 15 years old, and was then expecting another child. Despite repeated efforts, mother acknowledges she is unable to control R.T. Mother appealed the original jurisdiction finding and the Court of Appeal affirmed the jurisdiction and dispositional orders. The Supreme Court granted review to resolve a split of authority on the following issue: does section 300, subd. (b), require a finding that a parent was neglectful in some way to blame for the "failure or inability" to adequately supervise or protect his or her child? Relying on the plain language of the subdivision, the legislative history, and the imposition of fault in some but not all provisions of section 300, the Supreme Court found parental culpability is not required to impose jurisdiction. The opinion held that *Rocco M*. went astray by suggesting a parent's failure to supervise or protect a minor must always amount to neglect. The Supreme Court did not disagree with mother's assertion that she did everything possible to control R.T.'s incorrigible behavior and agreed that mother did not create the danger that R.T. would be at risk of serious physical harm. Finding that a parent's conduct, short of actually creating the danger a child faces (as in *Rocco M*.), may still satisfy the standard required under the 1st clause of section 300, subd. (b). The Supreme Court affirmed finding substantial evidence supported the jurisdictional orders and disposition.

In re C.V. (2017) 15 Cal.App.5th 566 (2d Dist., Div. 1) [Los Angeles]
An unloaded shotgun, in a backpack wedged between the mattress and bedroom wall was not a danger to 3-month-old infant and cannot be the basis for jurisdiction because C.V., even if he is an above-average three-month-old, would be incapable of accessing the weapon. The Court of Appeal reversed finding no risk to C.V. existed at the time the gun was discovered and father was arrested and not at the time of the jurisdiction hearing when C.V. was 5 months old and father had been sentenced to 32 months in jail. The appellate court found that even with the deferential standard of review of substantial evidence the record showed no evidence of a sufficiently substantial nature supported jurisdiction and the trial court's orders were reversed. [R. Keller, mother; S. Davidson, father]

In re Joaquin C. (2017) 15 Cal.App.5th 537 (2d Dist., Div. 7) [Los Angeles]
The Court of Appeal reversed after finding no evidence supported a finding that mother's mental illness prevented her from providing appropriate care for her infant son. The facts are long involving repeated unannounced visits by at least 2 social workers for 7 months where the social workers always noted Joaquin was appropriately dressed, well cared for and mother was attentive to his needs. Mother was diagnosed with psychosis vs. schizophrenia, paranoid type and started to comply with therapy and a psychiatric evaluation when Joaquin was removed. Reviewing the new formulation of the elements for jurisdiction from *In re Rocco M*. in the new Supreme Court case *In re R.T*., the appellate court found the agency failed to prove mother had ever engaged in conduct of the type specified by section 300, subd. (b). (See *In re R.T*. (2017) 3 Cal.5th 622.) Finding all the evidence in the record was contrary to such a finding, the Court of Appeal reversed the jurisdiction finding and all the subsequent orders including disposition are moot. [C. Peterson]

In re Luis H. (2017) 14 Cal.App.5th 1223 (2d Dist, Div. 7) [Los Angeles]
The Court of Appeal affirmed the trial court's finding that although 1 of 4 children had been sexually abused by mother's boyfriend, and mother had failed to protect that child, that the remaining children were not at risk of harm and properly dismissed the petition as to the 3 siblings. The younger 2 children and the only boys, aged 5 and 1 years old, appealed. The opinion relies on a standard of review that holds that if the trial court finds a failure of proof at trial, then reversal on appeal is only proper if the evidence compels a finding in favor of appellant as a matter of law. Despite the fact that the agency had the burden of proof in these proceedings, the court held the minors had failed to demonstrate the evidence was of such a character and weight as to leave no room for a judicial determination that it was insufficient to support the trial court's finding. Here, the trial court found the older daughter, at 15 years old, was not at risk and the boys were not similarly situated to their 9-year-old sister who was victimized. The juvenile court held the 9 year old was victimized because she was particularly vulnerable and the only target because she was shy and not terribly articulate.

UCCJEA
In re A.C. (2017) 13 Cal.App.5th 661 (4th Dist., Div. 1) [San Diego]
When the California juvenile court's emails and phone calls received no response from the Mexico court, the lack of a response is the same as Mexico declining jurisdiction under UCCJEA. (Fam. Code, § 3400 et seq.) The case began after mother, who was born in California, was deported from Mexico to the U.S. and she was stopped at the Port of Entry because she appeared unable to care for her children aged 6 and 1 years old. Mother was placed on a section 5150 hold and her children were detained. Mother appealed from the termination of parental rights arguing the trial court lacked subject matter jurisdiction over the children under the UCCJEA because she had lived for

9 years in Mexico along with her children. The parties agree Mexico is the children's home state and the juvenile court properly assumed temporary emergency jurisdiction over the children. The Court of Appeal held the trial court did not err in failing to verify and authenticate communication with Mexico judicial authorities. Initially, the appellate court found mother forfeited her argument because she made no objection nor did she raise these concerns in trial court. Further, it is presumed the trial court acted properly because the record is silent on the issue. In addition, mother provided no authority showing the court had a duty to verify or authentic its contact with Mexico's judiciary. When the Mexico judicial authorities failed to timely respond to the trial court's emails, this was tantamount to their declination to exercise jurisdiction over the children. Later in the opinion, the court held that other than Mexico or California no other state could possibly exercise jurisdiction. Finally, the Court of Appeal held the record showed mother had significant connections to California in that she had relatives who lived in the state and she visited regularly. [N. Gupta]

DISPOSITION

In re C.M. (2017) 15 Cal.App.5th 376 (4th Dist., Div. 1) [San Diego]

Where the trial court's order required C.M. to be immediately removed from mother if the agency received any evidence that C.M. was exposed to his stepfather in contravention of a permanent restraining order, the appellate court held this conditional removal order contravenes specific statutory requirements for notice and the opportunity to be heard, the burden and standard of proof, and the factual findings required to removed a child and ordered reversal. The facts of the physical abuse of mother and child include domestic violence with hitting and bruising of mother and spraying bleach at mother and C.M. The Court of Appeal held the issue was ripe for review even though C.M. had not yet been removed finding the order was self-executing and required no further judicial action. Finding the issue presented a question of law, the appellant court found mother had not forfeited her argument and the standard of review is de novo. Finding the legislature has enacted specific statutes governing the removal of a child from their home, the conditional removal order in this case altered those substantive and procedural requirements. The trial court erred when it issued a conditional removal order and the order was reversed. [J. Moran]

In re Destiny D. (2017) 15 Cal.App.5th 197 (2d Dist., Div. 7) [Los Angeles]

Where the trial court concludes that further court supervision is not necessary and no protective issues remain, the juvenile court may terminate jurisdiction at the end of the disposition hearing. After years of domestic violence, an incident in Aug 2016 convinced mother to get a restraining order against father. Father held a knife to mother's throat and 15-year-old Destiny tried to protect her mother and father shoved Destiny and she was injured. The restraining order was issued 2 weeks later ordering father to move out of the family home and to stay at least 100 yards from mother. A few days later, a

dependency referral was made alleging father had inflicted serious physical and emotional abuse. A dependency petition was filed 2 months later and during that time, mother complied with the restraining order. At the combined juris and disposition hearing, the court sustained the allegations against father related to father's alcohol abuse and to mother's failure to protect. The trial court then placed Destiny with her mother, removed her from father, granted joint legal custody but sole physical custody to mother, ordered supervised visits for father and terminated jurisdiction. Father appealed and argued this was improper because the court was obligated to set a section 364 hearing before it could terminate jurisdiction. The appellate court found the trial court had authority to terminate jurisdiction at the disposition hearing if further supervision by the court was no longer necessary to protect the child.

In re J.P. (2017) 14 Cal.App.5th 616 (2d Dist., Div. 8) [Los Angeles]
In reversing, the appellate court held that the juvenile court was required to order reunification services to father in a language he could understand (Burmese or Karen) despite the difficulties. Calling the trial court's orders a trap no parent should be placed in, the appellate court found that due process informed its conclusion that it is an abuse of discretion to make a dispositional order with the knowledge that a parent cannot participate because of a language barrier. Father immigrated to the U.S. from Myanmar with 2 of his 4 children from a refugee camp in Thailand where he had fled in 1996. His wife and other 2 children remained in Thailand. Once father arrived he went to live with his paternal great uncle. The uncle tried to help father to learn English, get a job and to care for his children. Instead, father did little beside drink alcohol daily. Ultimately, the uncle took over caring for the children and gave up on father working and father continued to abuse alcohol unabated. The agency became involved after an anonymous child abuse report and the children, then 9 and 5 years old, were placed with the uncle and father was ordered to move out. A 4-month delay occurred between the detention hearing and the juris/disposition hearing while the agency searched for services in Burmese to provide to father to treat his alcohol abuse to no avail. Father objected to services that were in English as unhelpful and instead requested a copy of the Alcoholics Anonymous (AA) books in Burmese (which were available) and a referral to English as a second language classes. Instead, the trial court ordered father to participate in a full drug/alcohol program with on-demand testing, a 12-step program, and a parenting class presumably all in English. While finding the trial court erred by ordering father to complete programs his language barrier prevented him from completing, the Court of Appeal acknowledged the difficulty with father only able to speak Burmese or Karen but contended the language problem is not insoluble. The opinion mentions the Strategic Plan for Language Access in the California Court which was adopted by the Judicial Council on Jan 22, 2015 and includes a recommendation that "[b]eginning immediately, as resources are available, but in any event no later than 2020, courts will provide qualified interpreters in all court-ordered, court-operated programs, services and events." The Court of Appeal held

father needed alcohol treatment, Burmese interpreters exist because they assisted father at every court hearing, and father had some limited success with internet-based translation software and friends acting as interpreters. Given this, the orders sending father to a drug treatment and 12-step programs was an abuse of discretion. [E. Alexander]

In re Travis C. (2017) 13 Cal.App.5th 1219 (2d Dist., Div. 1) [Los Angeles]
Where mother had serious mental illness, treated her illness only intermittently, and sometimes drove alone with the children even when she was experiencing symptoms, the Court of Appeal held the juvenile court properly found jurisdiction. The children were 10 and 9 years old at the start of the case and mother was diagnosed with schizoaffective disorder, visual and auditory hallucinations, delusions, suicidal ideation and paranoia and she continued to use marijuana daily. Mother appealed jurisdiction arguing there was a lack of specific identified harm. Holding that harm to a child cannot be presumed from the mere fact the parent has mental illness, the appellate court found substantial evidence supported jurisdiction. The evidence showed mother was not consistent in treating her illness and her therapist was concerned for the children's safety if mother was not medicated, mother had threatened suicide in front of the children, and she continued to drive alone with the children even while experiencing the effects of her illness. These facts were enough to support jurisdiction. [L. Rehm, mother]

BYPASS
Jennifer S. v. Superior Court (Oct 2, 2017, A151627) ___ Cal.App.5th ___ [2017 WL 4348898] (1st Dist., Div. 4) [San Francisco]
Where parents had prior children removed for similar reasons and then failed to reunify, the Court of Appeal affirmed application of bypass provision under section 361.5, subd. (b)(10), as supported by substantial evidence. On the face, the facts seems so unfavorable as to be frivolous but trial counsels appeared to make credible challenges because the Court of Appeal seemed to agree and admonished social workers to provide evidence of not only what happened in the earlier dependency but also what steps the parent has taken since the earlier removal to ameliorate the problem.

In re Madison S. (2017) 15 Cal.App.5th 308 (1st Dist., Div. 4) [Alameda]
Despite offering several arguments to challenge the trial court's finding that the minor Andrew was described by section 300, subd. (e) [sever physical abuse], the Court of Appeal affirmed the findings that Andrew suffered nonaccidental injuries and the father was the perpetrator of the abuse and the juvenile court properly found the bypass provision in section 361.5, subd. (b)(5), applied. One-month-old Andrew presented at the hospital with a skull fracture, bilateral hematomas on both sides of the brain, diffused retinal hemorrhage, and multiple healing rib fractures which the doctor described as nonaccidental, devastating and irreversible and were caused by "a lot of force." Madison is Andrew's 5-year-old half sibling who was eventually placed with

her presume father. Mother helped the police with a pretext phone call in which she tried to get father to describe what happened to Andrew. As a result of the recording, father was arrested. During the call, father seemed to indicate he had caused the injuries and asked for mother's forgiveness. Initially, mother left father but eventually she moved back in with him and at the jurisdiction hearing the parents presented a united front and argued Andrew had been injured during his birth by some mechanism other than nonaccidental force. The jurisdictional hearing included 3 medical experts including 2 defense doctors who testified Andrew was not the victim of child abuse. The final doctor was the only one to actually see Andrew and to be involved in his follow-up care. She concluded that Andrew's constellation of injuries were caused by blunt force trauma and not by injuries caused by the process of Andrew being born. The juvenile court found the doctor who was involved in Andrew's care was the most credible because she had direct contact with Andrew and her conclusions were supported by father's statements on the pretext phone call. The appellate court rejected father's contentions that the trial court should not have relied on the pretext phone call because father never admitted any intentional act, that the record supported a conclusion that mother was the actual perpetrator of the abuse, that 5-year-old Madison was the perpetrator, and that the doctor who found nonaccidental abuse was incorrect because Andrew appeared to be recovering rather than having irreversible injuries as originally described. Affirming the trial court's finding that father was the perpetrator of Andrew's injuries, the Court of Appeal held the bypass provision in subd. (b)(5) was supported by clear and convincing evidence and based on the facts of this case the trial court was prohibited from granting reunification services here. [C. Booth, father]

PRELIMINARY/CONTINUING CONSIDERATIONS

Indian Child Welfare Act (ICWA)

In re J.L. (2017) 10 Cal.App.5th 913 (4th Dist, Div. 1) [San Diego]

Where mother's only response to the ICWA inquiry is that she was "not sure" she had Indian heritage, she was unable to name a specific tribe or nation, and she could not name any relatives with further information, the Court of Appeal held the duty of inquiry was not triggered and the court did not place an undue burden on mother to provide additional information. Mother appeals the termination of her parental rights and contented the court failed to comply with the requirements of the ICWA. Mother made a vague claim of possible Indian heritage at the detention hearing and the trial court told mother she was to pass along any clarifying information she received about Indian heritage. She did not provide any further information in trial court or in the appeal. After reviewing the relevant case law, the appellate court held vague statements suggesting a child "may" have Native American heritage are insufficient to trigger ICWA notice requirements. The opinion distinguished the case law provided in appellant's reply brief finding even the minimal information provided in that case exceeded the information provided by mother here.

PATERNITY

In re L.L. (2017) 13 Cal.App.5th 1302 (4th Dist., Div. 1) [San Diego]

In case involving 2 presumed fathers, the Court of Appeal held the trial court erred in finding the disputed presumed father was a third parent and failed to conduct an evidentiary hearing under section 7612, subd. (b), to determine which claim for presumed father was entitled to greater weight. Child was 10 years old at the start and lived with her mother and presumed father T.L. The only father L.L. has known is T.L. but her biological father is B.S. who has been jailed for several years for serious crimes including manslaughter. L.L. had no current relationship with B.S. but prior to his incarceration he acted as a parent including providing some monetary support, filed an action in family court and was awarded joint legal custody and visited regularly during L.L.'s 1st 4 years. The Court of Appeal held that although there was a split of authority about whether the presumed father status can fall away if a current relationship is not maintained, the opinion found B.S. qualified as a presumed father based on his prior caring for L.L. The error arose when the trial court found B.S. qualified as a third parent because it would not be detrimental to L.L. to have a third parent. In the instant case, the appellant court concluded B.S. could not qualify as a third parent because he did not have an existing parent-child relationship with L.L. Since the trial court improperly found L.L. had 3 parents, the juvenile court failed to undertake the weighing process to resolve the competing claims of T.L. and B.S. The court reversed the ordering finding 3 parents and remanded with directions that the juvenile court hold an evidentiary hearing to weigh the competing claims of the 2 presumed fathers here. [M. Chaitin, mother; R. Knight, T.L. father]

12-MONTH REVIEW HEARING

In re A.G. (2017) 12 Cal.App.5th 994 (4th Dist., Div. 1) [San Diego]

The trial court erred in finding father received reasonable reunification services when father had been previously deported to Mexico and was given no assistance with services during the case. Father appealed the 12-month review hearing where the court found he was provided with reasonable reunification services and the appellate court reversed. The children were 10, 9 and 7 years old and the case began because of mother's alcohol abuse and failure to supervise the children. Father requested placement of his children as soon as he learned of the case. Despite being granted reunification services for 12 months, the agency through the corresponding agency in Mexico, DIF, had been unable to provide any services to father. The Court of Appeal held that despite the difficulty of offering services to father, there is no "Go to Mexico, lose your child" rule in California. The record showed visitation was available but had not been implemented on a regular basis, parenting education was available but DIF had not yet referred father to a program. Thus, the trial court's finding that the agency could not provide services to father was not supported by substantial evidence. The record showed

father was not offered or provided with the court-ordered services in his case plan. The finding that father received reasonable services was reversed. [N. Gold]

SECTION 366.26

In re D.H. (2017) 14 Cal.App.5th 719 (4th Dist., Div. 2) [Riverside]

Following an existing line of cases which finds that due process requires a finding by clear and convincing evidence that placing a child with a particular parent is detrimental must be made before the trial court can terminate parental rights, the Court of Appeal reversed and remanded with instructions. Nine-year-old D.H. was living in a probation guardianship with his paternal grandparents when it was discovered grandmother was abusing methamphetamine. The grandparents did not reunite after 12 months of reunification services. D.H. was placed in an adoptive home and, 3 months later, the juvenile court terminated father's parental rights (the guardianship had previously been ended). The appellate court found this was in error because there had never been any allegations against father and the trial court had never found placing with father was detrimental to D.H. Given the lack of these findings, father's due process rights were violated and reversal was required based on the line of cases which began in 2006 with *In re Gladys L*. In following these cases, the Court of Appeal held the constitution requires such a finding in order to comply with due process.

Sibling Exception

In re J.S. (2017) 10 Cal.App.5th 1071 (4th Dist., Div. 2) [San Bernardino]

The trial court erred in failing to allow mother to testify about the sibling relationship at the section 366.26 hearing when it appeared mother had reunited with at least 1 sibling and J.S. may have lived with his sibling for some unspecified time. In this appeal by the parents from the termination of parental rights, the Court of Appeal reversed in part and ordered remand with instruction for a limited evidentiary hearing to allow mother to testify about the quality of any relationship between J.S. and any of his siblings. J.S. was removed at birth after testing positive for methamphetamine. He was returned to his parents for almost a year but then was detained because of on-going domestic violence and substance abuse. Eventually J.S. was placed with his paternal grandmother where he remains. Relying on due process rights, the appellate court held mother's rights were violated when she was prevented from testifying regarding J.S.'s relationship with his siblings effectively precluding any argument for the application of the sibling exception since the record was devoid of any information about J.S.'s siblings. The error could not be deemed harmless because the Court of Appeal could not say how long J.S. and his siblings lived together or the degree of their bond. [W. Caldwell, mother; P. Tripp, father]

Relative Placement

In re A.K. (2017) 12 Cal.App.5th 492 (3d Dist.) [Sacramento]

In an appeal from the termination of parental rights, father was found to have no standing to raise the relative placement issue and he forfeited such argument by failing to raise it in trial court. Child removed at 1 year old because of serious domestic violence between the parents where the child was injured. The parents received 12 months of reunification services but did not reunify. Father argued the trial court erred in terminating parental rights because the court failed to assess the paternal grandmother's request for placement. Finding father's reunification services had been terminated, the Court of Appeal rejected father's argument that placement with grandmother could have triggered the relative caregiver exception under section 366.26, subd. (c)(1)(A). The court held that even if the grandmother had been granted placement at the section 366.26 hearing, the court would have immediately proceeded to termination of parental rights and the placement order would not have affected father's parental rights. Grandmother never indicated she would not adopt and the placement would not have taken place yet so father could not argue removal from grandmother was detrimental. As for forfeiture, father never appealed from any earlier hearing about the lack of any assessment of the grandmother, the trial court did not have a sua sponte duty to hold a section 361.3 hearing re: relative placement and, at the section 366.26 hearing, father did not challenge the failure to place with grandmother and did not present evidence or argument or request a ruling on the issue. Based on these facts, father forfeited. [L. Johnson, mother]

NON-MINOR DEPENDENT

In re David B. (2017) 12 Cal.App.5th 633 (1st Dist., Div. 4) [Contra Costa]

Where the Court of Appeal determined it could not make David B. younger, it could not grant any relief and dismissed the appeal at moot. A petition was filed for David when he was 17 years, 11 months old. He was a victim of past gun violence, was wheelchair bound, a diabetic in need of day-to-day medical care and he lived in a homeless shelter. Finding that dependency jurisdiction was not initiated prior to David's 18's birthday, the court is now not able to provide any effective relief for David. Whether David was abandoned by his mother is unclear. The investigation took some time but the trial court found David had not been abandoned and dismissed the petition. By the time he appealed, David was already 18 years old. Finding dependency jurisdiction must be undertaken before a child turns 18, the appellate court cannot now declare David a dependent. The agency argued, and the court agreed, the appeal is now moot since the court cannot turn back the clock to make David 17 years old again. [V. Lankford]

In re Jesse S. (2017) 12 Cal.App.5th 611 (4th Dist, Div. 3) [Orange]

After interpreting the relevant statute to mean that relief could not be granted, the Court of Appeal reluctantly affirmed but published its opinion in the hopes the legislature will change the law or affirm the unfair result is what they intended. Jesse

is living on his own and 4 months before his 20th birthday, he filed a section 388.1 petition requesting a return to juvenile court jurisdiction and foster care. He claimed his adoptive parents were no longer providing support. The facts are unclear about whether Jesse left home on his own but what is clear is that the adoptive parents continue to receive Adoption Assistance Program (AAP) payments. The statute under section 388.1 provides that if the adoptive parents are no longer providing ongoing support and no longer collect AAP benefits, the minor is eligible to reenter juvenile dependency system. Here, it is undisputed the foster parents continue to get payments. Given this fact, the appellate court affirmed. The opinion reviews the history of these payments (going back to the 1960's) and the Fostering Connections legislation and purpose. Given the nature of these systems, the review periods are long and a change in payment takes quite awhile. The children who are supposed to be helped do not have lots of time. Here, AAP month is being spent on behalf of Jesse while he is between 18 and 21 years old but none of that money is helping him transition to adulthood. [M. Levine]

MISCELLANEOUS

In re J.P. (Sept 26, 2017, B281438) ___ Cal.App.5th ___ [2017 WL 4250142] (2d Dist., Div. 5) [Los Angeles]

Reversal with specific instructions on remand where mother filed a 388 petition requesting appointment of counsel, reunification services, and unsupervised visits in limited circumstances and the trial court failed to appointed counsel for mother at the hearing when the 388 petition was denied and 3 subsequent hearings without a reason provided by the juvenile court. Unusual facts in which child was removed the year he was born in 2006 and has now spent almost his entire life in the dependency system. Lived with his mother for 4 years under family maintenance until he was removed and the court issued a 3-year restraining order limiting mother's contact. He has attempted suicide and has had numerous involuntary psychiatric hospitalizations and has been prescribed a regimen of psychiatric medications. He has most recently lived the last 3 years in a group home. Mother filed a 388 after J.P.'s CASA and group home therapist indicated mother has been visiting regularly and was able to console J.P. and she presented a calming influence on J.P. In addition, J.P. wanted to see his mother more and wanted unmonitored contact at the group home. Minor's counsel was also in agreement with granting mother's 388 petition. Despite minor's counsel asking the trial court to appoint counsel for mother 3 times, the trial court never did and failed to indicate why. After admitting they had not seen mother's 388 petition, the agency focused on mother's past conduct and the reasons the juvenile court sustained the dependency petition in the first place. Relying on a harmless error analysis, the Court of Appeal reversed finding that mother's lack of counsel at 4 separate hearings deprived her of her due process rights and prejudicially affected the manner in which the section 388 hearing was conducted. The concurring opinion by J. Baker goes further and discusses how the trial court's error may have infected subsequent dependency proceedings. [J. Tavano]