

Negotiating Alternatives and the Challenges Associated with a “Living and Breathing” Case

Lisa Procaccio and Eileen Fredericks

Client's Goal(s)

- Meeting with client before initial appearance
- Continue to evaluate
- Brainstorm ways to achieve client's goal(s)



Possible Options for Parents Facing TPR

- Voluntary termination of his/her parental rights
- Stipulating to Grounds (proceed with caution!!)
- Hold Open Agreement
- Court Trial
- Jury Trial
- Visitation Agreements
- Alternative Dispositions

Voluntary Termination of Parental Rights



Factors That May Make Voluntary TPR Appropriate

- Go back to your client's goals
 - ... and don't be afraid to reassess the goals
- Constantly reevaluate the new information
- Motions may change your assessment of the case
- Do not underestimate the emotional impact of the case on your client

Stipulation to Grounds



Stipulating to Grounds is Generally a Bad Idea

- Stipulating to grounds will rarely be to your clients advantage.
- Because we probably won't win the trial is NOT a reason to stipulate to grounds.
- It's almost always better to play for the fumble.

Court Trial vs Jury Trial



Court Trial vs Jury Trial

- Can your client handle a jury trial?
 - Strangers hearing everything
 - How many days will it last?
- Who is your judge?
 - And any pretrial rulings
- Why was/were the kid(s) removed?
- How will client come across to a jury?
- Consider appellate issues

A Few Words on Visitation Agreements

- They are not legally enforceable.
- Foster parents behavior and treatment of your client throughout the CHIPS case is telling.



Alternative Dispositions



Creating Support for Alternatives to Termination

- Highlight the bond between your client and the child.
- Investigate the proposed adoptive resource.
- Know the child's placement history over the life of the case.
- Look into possible benefits of subsidized guardianship over adoption.

Going Back to the Beginning: Client's Goals