

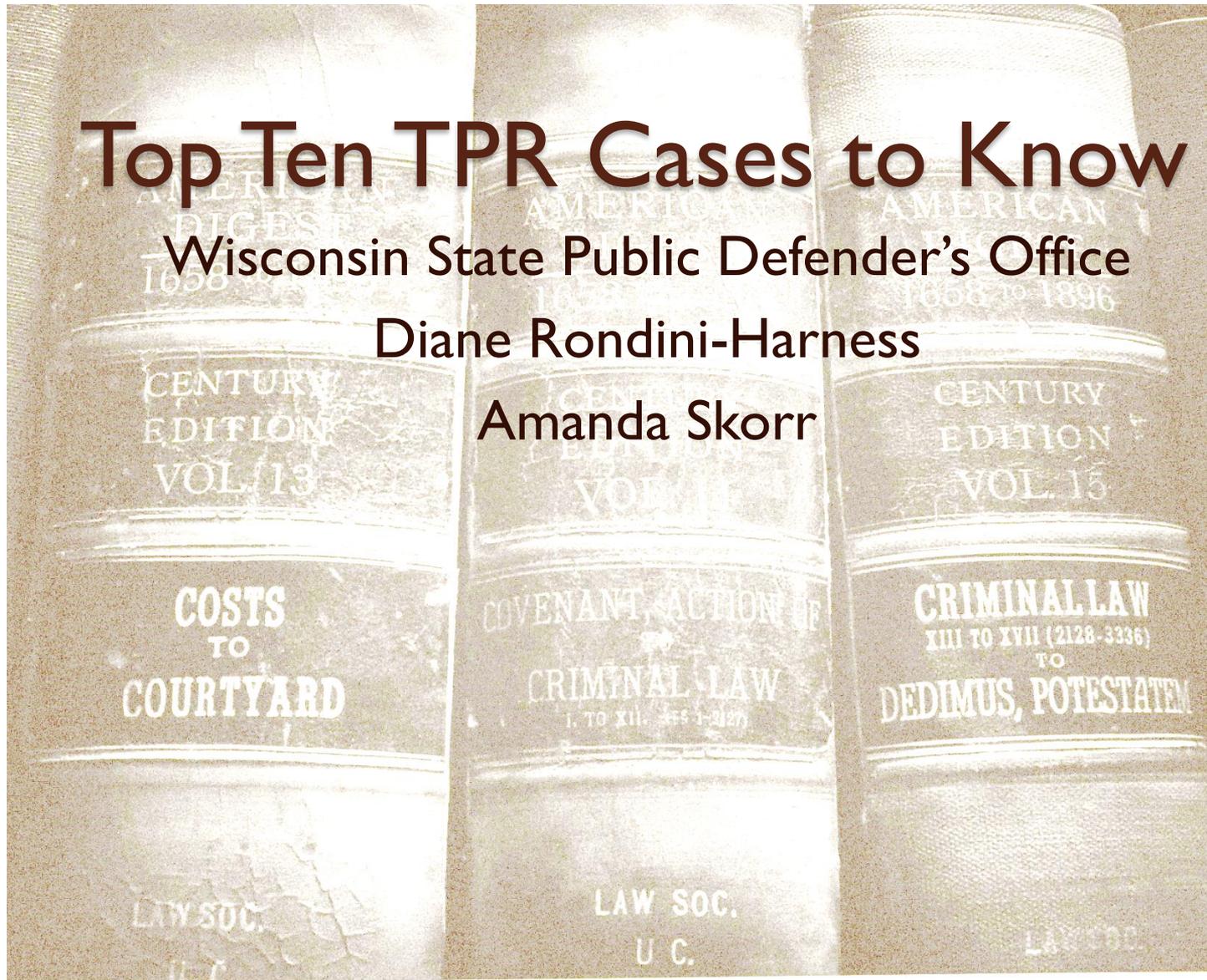


Top Ten TPR Cases to Know

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I.

Stanley v. Illinois, 405 U.S. 645 (1972)

A landmark United States Supreme Court case in which the Court held that the fathers of children born out of wedlock had a fundamental right to their children. Parental unfitness must be established on the basis of individualized proof.



2.

SANTOSKY v. KRAMER,
455 U.S. 745, 752-754 (1982)

The fundamental liberty interest of natural parents in the care, custody, and management of their child does not evaporate simply because they have not been model parents or have lost temporary custody of their child to the state... When the state moves to destroy weakened familial bonds, it must provide the parents with fundamentally fair procedures.



3.

In the Interest of T.L., 151 Wis.2d 725 (1989)

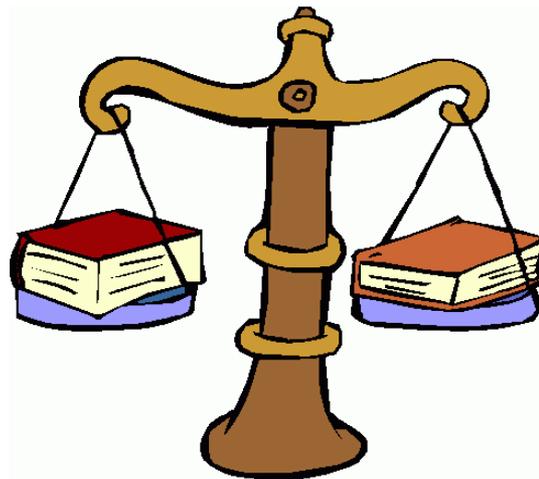
An appointed adversary counsel has the same function, duties and responsibilities as he would have if he were retained by the person involved as his or her own attorney. The duties and responsibilities of lawyer to client in this state are set forth in the Code of Professional Responsibility promulgated by [the Wisconsin Supreme Court]. They include preserving the confidence and secrets of a client, exercising independent professional judgment on behalf of a client, representing a client competently, and representing a client zealously within the bounds of the law. Furthermore, the involvement of a GAL in these situations does not diminish the adversary counsel's duty to provide his client with zealous, competent and independent representation.



4.

In Interest of Torrence P.,
187 Wis. 2d 10, 522 N.W.2d 243
(Ct.App. 1994)

A developmentally disabled father's allegation that the county, in violation of the Americans with Disabilities Act, did not take into account his disability in attempting to provide court ordered services was not a basis to attack a termination proceeding. The ADA did not place an added burden on the county to meet the requirements of sub. (2) (b) [now sub. (2) (a) 2.].



5.

Matter of Parental Rights to K.D.L and S.P.K., 58 P.3d 181 (2002)

Severing the parent-child relationship in a TPR is
“tantamount to imposition of a civil death penalty.”



6.

La Crosse County v. Tara P.,
2002 WI APP 84



Events prior to a CHIPS dispositional order are frequently relevant at a termination proceeding. A parent's relevant character traits and patterns of behavior and the likelihood that any problematic traits or propensities have been or can be modified in order to assume the safety of the children must be considered.

7.

State v. Quinsanna D., 2002 WI App 318.

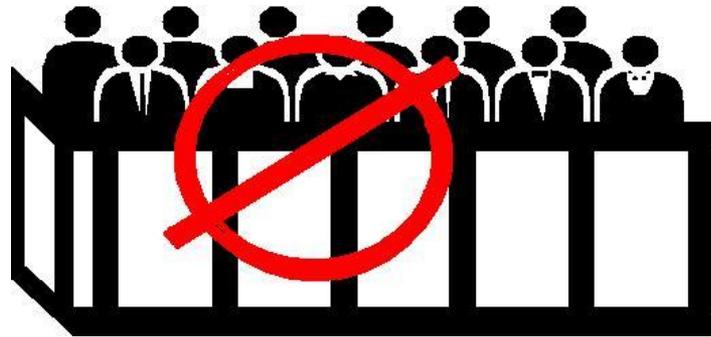
Criminal offenses and sentences are relevant to whether a parent had failed to establish a substantial parental relationship with children under (6).



8.

Steven V. v. Kelley H. . 2004 WI 47.

Partial summary judgment may be granted in the unfitness phase of a termination case if the moving party establishes that there is no genuine issue as to any material fact regarding the asserted ground for unfitness, and, taking into consideration the heightened burden of proof specified in s. 48.31(1) and required by due process, the moving party is entitled to judgment as a matter of law.



9.



Kenosha County Department of Human Services v. Jodie W. , 2006 WI 93

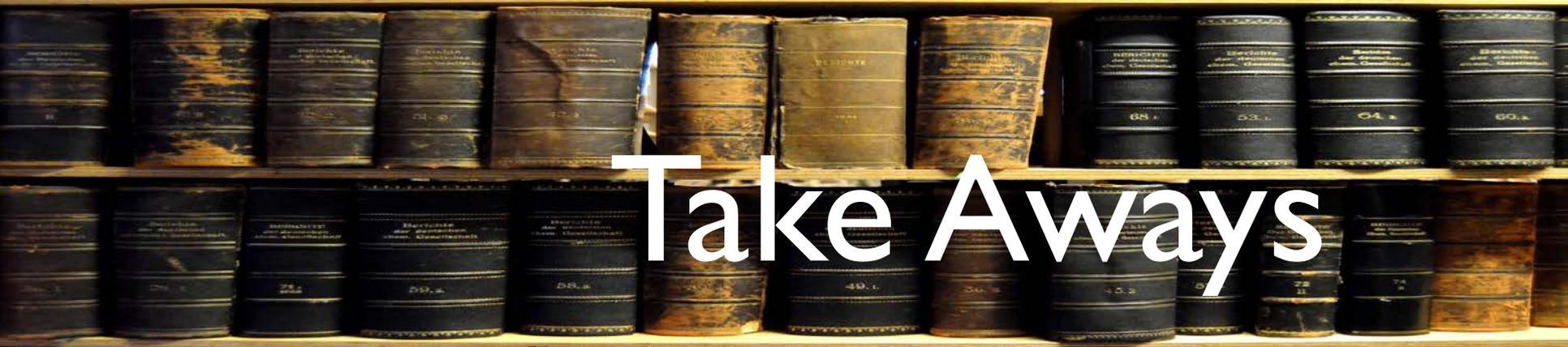
When a parent is incarcerated and the only ground for parental termination is that the child continues to be in need of protection or services solely because of the parent's incarceration, **sub. (2) requires that the court-ordered conditions of return are tailored to the particular needs of the parent and child.** A parent's incarceration is not a sufficient basis to terminate parental rights. Other factors must be considered, such as the parent's relationship with the child both prior to and while the parent is incarcerated, the nature of the crime committed, the length and type of sentence imposed, the parent's level of cooperation with the responsible agency and the department of corrections, and the best interests of the child.

10.

State v. Bobby G., 2007 WI 77

In determining whether a party seeking termination of parental rights has proven by clear and convincing evidence that a biological father has failed to assume parental responsibility under sub. (6), a circuit court must consider the biological father's efforts undertaken after he discovers that he is the father but before the circuit court adjudicates the grounds of the termination proceeding.





Take Aways

- - **OFTEN YOU WILL NOT BE SUCCESSFUL AT THE TRIAL COURT LEVEL, SET UP THE APPEAL**
- **ALWAYS GOOD TO REMIND THE COURT THAT DUE PROCESS CAN BE MESSY AND TAKE TIME**
- **CAN CITE CASES “AS COVER” WHEN YOU ARE GETTING FLACK OR ARE LOOKING FOR A WAY TO ADDRESS A SENSITIVE ISSUE EX. IMPLICIT BIAS**