

Adjudication Handout

Scenario 1

DSS files a petition regarding five children, alleging neglect based in injurious environment and dependency. They all share the same mother. However, the 2 girls have father A and the 3 boys have father B. The petition alleges and the evidence at hearing supports the following factual allegations. The children began living with grandmother in late October, after mother left them in grandma's care and went to NY. Mother has not been in contact since she left. Father A is incarcerated and has no suggestions for who can care for his daughters. Father B was not located by DSS at the time the petition was filed. When mother left the children with grandma, grandma was living in a hotel. In November, grandma moved with the children to transitional housing, but after 5 weeks, the home had no heat, no working plumbing, and no electricity. There was also no food. One week later, they were evicted. During their time with grandma, the children had poor hygiene, not regularly bathing or brushing their teeth, and had inadequate nutrition. At hearing, Father B testified DSS had his contact information and that he was available and willing and wanting his boys in his care. The court adjudicated the girls neglected. The court determined the boys were not neglected as they would receive proper care and supervision with their father and could have if DSS had contacted father.

Question 1: Was this the proper outcome?

Question 2: Could the court have adjudicated all 5 children dependent?

Scenario 2

A 4-month-old infant was brought to the hospital by her parents for a fever and vomiting. She was admitted and a CT scan revealed a brain bleed, skull fracture, and fractured arm. Non-accidental trauma was suspected, and a full skeletal survey revealed another healing fracture. At the adjudicatory hearing, the medical records are admitted. The dr. testifies that the skull fracture was likely caused by a blow to the skull or being struck against a hard object and could only have been caused by a fall if the baby fell over 3 feet onto a hard surface. He also testifies that the arm fracture was in a different state of healing than the skull fracture and is of the sort of fracture that are most commonly caused by twisting or bending and is not something an infant of this age could cause on their own. The parents testified they

were the sole caregivers for the baby during the 1 - 3 week period that the doctors estimated the injuries occurred. Neither parent had any explanation for the injuries. They denied that the baby had fallen, been dropped or thrown, endured trauma, or was mistreated in any way. Although the baby had been exposed to other people, the parents always supervised her. The petition alleged abuse and neglect referring to the medical findings of non-accidental trauma, that the parents were the baby's sole caregivers during the relevant time period, that the child was in an injurious environment due to lack of proper care, supervision, or discipline. It is not known how the child was injured or the exact dates of when she was injured.

Question: What would you decide re: adjudication?

Scenario 3

DSS files a petition alleging neglect due to lack of proper care and supervision and injurious environment. The factual allegations include the following and evidence was introduced at hearing to support the allegations. Mother and her boyfriend, who is the baby's father, live with mother's cousin. When mother's cousin came home from work one night, she discovered mother and boyfriend passed out naked on the couch. Empty beer bottles were strewn about and the kitchen table was broken. After several minutes, cousin was able to wake up mother, who would not tell cousin where baby was but that she (mother) knew where the baby was. Cousin kicked mother and boyfriend out that night. The next day, babysitter showed up at cousin's house at 6 a.m. with baby looking for mother. Cousin took baby. Mother showed up at 7 a.m. and took baby. Mother had another child who died of unknown causes and a third child to whom her rights were terminated.

Question: Would you adjudicate the juvenile neglected?

Scenario 4

DSS filed a petition alleging abuse and neglect. At the adjudicatory hearing, DSS informed the court that the parents did not consent to any findings of fact and asked the court to accept the verified petition as evidence, no other evidence was introduced. Respondent mother did not object to the court's consideration of the verified petition. The court adjudicated the juvenile abused and neglected based solely on the verified petition.

Question 1: This is a sufficient procedure for adjudication. YES NO

Question 2: If the social worker testified about her name, position, drafting the petition, and affirming nothing has changed with the petition, the process is sufficient.

YES

NO

Scenario 5:

DSS filed petition alleging neglect and dependency. At the adjudicatory hearing, medical records of the mother and infant at the time of birth were introduced. Mother also provided sworn testimony. The court asked mother if she acknowledged the adjudication of neglect based on (and then reading from the petition) the baby tested positive for morphine at birth and the mother used illegal drugs during her pregnancy. Mother responded "yes ma'am." Respondent father's attorney stated the father was not opposed to the admission by mother.

Question 1: Is this a stipulation, consent, or neither?

Question 2: What if the mother did not agree, but father did. Can the court rely on dad's agreement?

Scenario 6

DSS files a petition alleging neglect based on an injurious environment resulting from domestic violence in the home that the children have been exposed to. The petition sets forth various facts that demonstrate the risk of harm to the children, including their being no food in the house at one point because father would not let mother leave the house to purchase groceries. The children were not fed for two days. The parties present a proposed consent order. Both parents are present with counsel. The child's GAL attorney advocate is present. DSS presents the consent order which includes DSS became involved because of a report of domestic violence in the home. Living in the home are the mother, father, and their two children ages 3 and 5. Based on the report, the children are neglected.

Question: Is this a proper consent?

Scenario 7

DSS files a petition for an 11-year-old boy alleging neglect. The petition alleged there was a previous CPS case that substantiated the child's sexual abuse by mother's now ex-boyfriend. The child was recently sexually abuse by a family friend. Mother has not sought therapy for her child as DSS recommended. She also has no showed for two separate meetings with the D.A. re: prosecution of that case. This school year, the child has been absent from school for 25 days and tardy 37 times.

DSS reads a prepared admission by mother in the record. It states the child is neglected because he did not receive proper care and supervision by mother as she did not ensure child regularly attended school. There have been 25 absences and 37 tardies this school year. The child failed 3 core classes. Mother has not taken child to well care visit with a doctor to address her medical needs. Mother states under oath her agreement with the admission. The father does not oppose the admission by mother. The child's school report card is introduced. There is no other evidence. The court adjudicated neglect.

Question 1: Is this a stipulation, consent, or neither

Question 2: Did the court have enough evidence to adjudicate neglect? Yes No

Scenario 8

On April 21st, DSS files a petition alleging neglect after mother brings her two children to DSS and states she is unable to care for them emotionally and financially. She is homeless and without any support from family or friends after leaving the children's father, who she reports is abusive to her and the children. He throws things and hits her. On two different occasions, when he has been angry, he has thrown each child against the wall. She reports father drinks alcohol and smokes weed daily. Mother refuses to go to a shelter with the children. The petition names mother and father as respondents. Mother is personally served on April 27th. The summons mailed to father was returned "unclaimed." The clerk sends notice of the June 2nd hearing to mother and father; neither notice is returned. Mother appears for hearing with counsel but father is a no show. The children's GAL/attorney advocate is present.

Question 1: May the court proceed with the hearing without father? YES NO

Question 2: Mother consents to an adjudication of neglect. The GAL also consents. Should the court accept the proposed consent order? YES NO

Question 3: Mother stipulates to dependency through a written document she has signed and DSS submits to the court. Is this a proper stipulation? YES NO

Question 4: Father receives the adjudication order of neglect in the mail. His attorney files a Rule 59 motion arguing for a new hearing because father was not served and there was no determination of neglect as to father. Should the court grant the motion? YES NO