

**Personal Jurisdiction and Service of Process  
in A/N/D and TPR Proceedings:  
CASE SCENARIOS**

**EXERCISE 1: Terrence**

- (a) Terrence is a 10-year-old respondent juvenile in a TPR proceeding brought by the county (by petition). DSS has custody of Terrence and has placed him with his grandmother. Terrence is served via Rule 4(j)(2) by delivery to Terrence and his grandmother at her home.

Neither Terrence's guardian ad litem nor any other person objects to service throughout the proceeding. An order is issued terminating parental rights.

Terrence's mother appeals, stating that the lower court did not obtain personal jurisdiction over Terrence. Her attorney argues that the method of service over Terrence was not proper.

**Was the summons served upon Terrence by the proper method?**

**How would the Court of Appeals rule on the mother's argument about personal jurisdiction over Terrence?**

- (b) Assume DSS initiated the TPR matter by motion rather than petition.

**How must DSS serve:**

- **Terrence?**
- **His guardian ad litem?**
- **His parents?**
- **His grandmother?**

## **EXERCISE 2: Patricia**

Patricia has two children. Jessica is age 4 and Jonah is age 14. An abuse and neglect petition is pending with respect to both children, and Patricia is represented by counsel. Both children were assigned guardians ad litem.

One year into the abuse and neglect matter, DSS files a motion to terminate parental rights over both children. The motion and notice are served upon Patricia by delivery to her lawyer.

- (a) At the hearing, Patricia's attorney objects to service of process and personal jurisdiction over Patricia.

**Was Patricia served by a permissible method?**

- (b) Patricia's attorney also contends at the hearing that there is no personal jurisdiction over Jessica (age 4) in the TPR action because no notice was directed to or served upon her.

**Is her attorney correct?**

- (c) Assume the TPR motion was filed 2 years and one month after the abuse and neglect petition was filed. On appeal of the district court's termination order, Patricia's attorney argues for the first time that service of the TPR motion and notice upon her (via her lawyer) was improper, and thus the termination order should be vacated.

**Was service proper? How should the Court of Appeals rule?**

## **EXAMPLES 3 & 4: EXTENSIONS! RULES 4(d), (e)**

### **Example 3: Mary and Carlos**

- (a) DSS files a TPR petition and has a summons issued to respondent parent, Mary, a North Carolina resident, on June 1. The summons is delivered to the sheriff for service. On August 2 (62 days later), the original summons is not yet served on Mary after two attempts. Service by mail is also not successful.

On August 3 (day 63), the DSS attorney goes to the clerk's office for an extension. On her way, her office calls to tell her that the sheriff has just returned the original summons served upon Mary personally and executed on August 1 (day 61).

**Should DSS attorney still seek an extension upon the original summons?**

- (b) The other respondent parent, Carlos, lives in Venezuela. A summons was also issued to Carlos on June 1 at the time of the filing of the petition. DSS attorney has been attempting personal service pursuant to Hague and Inter-American Convention service protocols. By October 1, four months later, no service has been made upon Carlos.

**Has DSS attorney's time to obtain extension of the original summons upon Carlos passed? (Rule 4(d) has the answer.)**

#### **Example 4: Karen and Paul**

- (a) A TPR petition is filed April 1 and summonses are issued to respondent parents, Karen and Paul, who live separately.

Paul is served April 8 by certified mail.

On July 3 (day 93), DSS receives a certified mail receipt showing Karen received the summons on July 2 (day 92).

**Has service been obtained on Karen by certified mail? What is the status of the petition as to Karen?**

- (b) On July 5 (day 95), DSS attorney obtains issuance of alias and pluries summons on Karen. Service is completed ten days later, on July 15.

Karen's attorney argues to the district court judge that the action against Karen was effectively dismissed under Rule 41 upon failure to serve or obtain extension within 90 days. (Thus DSS must refile action against Karen.)

**How should the court rule?**

- (c) Karen's attorney argues that the action against Karen did not commence until July 15 (date of service of alias and pluries).

**Should this argument succeed?**

**What is the date of commencement of the action against Karen?**

**What about Paul? How might the difference impact the presentation of the case?**