

Zealous Advocacy in CHIPS Cases: What Parents' Attorneys Need to Know to Effectively Advocate for their Clients

Juvenile Court Practice Training Hypothetical

In re: DeQuan Jenkins

In re: Janay Jenkins

Children's Justice Initiative Conference

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Petition Allegations

In the matter of DeQuan Jenkins (DOB 6/5/Y-9) and Janay Jackson (DOB 4/5/Y-7)

The Petitioner finds that the above named minors are in need of protection or services.

The parent's home or environment by reason of neglect, cruelty, drunkenness, criminality, or depravity was found to be an unfit place for the above named juveniles to live.

LaToya Jenkins is the mother of DeQuan Jenkins and Janay Jenkins.

Prior to the petitioning of this case, DeQuan and Janay resided with their mother.

Petition Allegations

Yesterday, DeQuan and Janay were left alone in their mother's home sometime between 8:00 a.m. and 4:30 p.m. while the mother was at work. At approximately 4:30 p.m., DeQuan called 911 and reported that he accidentally shot his sister Janay. When the police arrived at the mother's home, they found Janay bleeding as a result of gunshot wounds to her hand and chest. Janay is currently at the hospital in critical condition.

The gun DeQuan used to shoot his sister was under the mother's bed on the floor, within easy reach of the children. When police searched the mother's home, they found a white powdery substance, baggies, large amounts of cash and two guns (including the gun involved in the shooting).

LaToya Jenkins has a criminal record and prior history with child protective services.

Questions - Investigation

- What are the short-term and long-term issues that will need to be addressed in the CHIPS case?
- What is your investigation plan?
 - Who will you talk to? About what?
 - What documents will you track down? How?

ABA Standards - Investigation

- Standard 19 – “Conduct a thorough investigation at every stage of the proceedings.”
- Standard 21 – “Review the child welfare agency case file.”
- Standard 22 – “Obtain all necessary documents, including copies of all pleadings and relevant notices by other parties, and information from the caseworker and providers.”

Take five minutes to review the additional facts

Questions

- If out of home placement is required, what is your position about placement and visitation? What arguments can you make to advance your client's positions? What arguments will be made by the other side?
- Do you advise your client to start complying with services immediately? Why or why not? If so, what services?

ABA Standards

- Standard 11: “Counsel the client about all legal matters related to the case.”
- Standard 26: “Engage in case planning and advocate for appropriate social services using a multidisciplinary approach to representation when available.”

Take five minutes to review additional facts

Questions

- Do you advise your client to admit to the allegations in the petition? Why or why not?
- Do you file any pre-trial motions? What issues do you raise at the hearing? How do you respond to the request to suspend visits until three consecutive negative drug screens are received?
- A theory of the case is your explanation of what happened and why. Based on the information you have collected, what is theory of the case? What is the Department's theory of the case? What witnesses will you call to support your theory?

ABA Standards

- Standard 23 – “When needed, use formal discovery methods to obtain information.”
- Standard 24 – “Develop a case theory and strategy to follow at hearings and negotiations.”
- Standard 27 – “Aggressively advocate for regular visitation in a family-friendly setting.”
- Standard 28 – “With the client’s permission, and when appropriate, engage in settlement negotiations and mediation to resolve the case.”
- Standard 33 – “Prepare and make all appropriate motions.”

Additional Facts

Take five minutes to review the additional facts

Questions

- Do you attend the case planning meeting between your client and the case worker to discuss the service plan? Why or why not?
- At the dispositional hearing, the Department requests that the court order Ms. Jenkins to participate in additional services. What is your response? What legal arguments do you make?
- What requests do you make at the hearing?

ABA Standards

“The parent’s attorney must advocate for the client both in and out of court . . . The attorney should ask the client if the client wishes to engage in services and if so, . . . must determine whether the client has access to the necessary services to overcome the issues that led to the case. . . The attorney should actively engage in case planning, including attending major case meetings, to ensure the client asks for and receives the needed services. The attorney should also ensure the client does not agree to undesired services that are beyond the scope of the case.”