

NACC envisions a justice system wherein every child has his/her voice heard with the assistance of well-trained, well-resourced independent lawyers resulting in the child's rights being protected and needs being met.

Regrets of the Past can Open Pathways to a Better Tomorrow

By Judge Oscar G. Gabaldón, Jr., CWLS

The British statesman, Sir Winston Churchill, once remarked that "To every man, there comes in his lifetime, that special moment, when he is physically tapped on the shoulder and offered the chance to do a very special thing, unique to him and fitted to his talent; what a tragedy if that moment finds him unprepared or unqualified for the work which would be his finest hour."

We sometimes fail to seize opportunities that could have turned out to be doorways to a better life, to a more successful career, to the acquisition of greater knowledge and understanding, or to acquiring happier and more fulfilling personal life experiences. At times, we resist reaching out and grasping such opportunities for fear of the unknown, for fear of failure, or perhaps simply due to careless inattention. Whatever may contribute to our failure to seize such opportunities, there are always new opportunities ahead of us. They will come, and they will tap us on our shoulders. Will we be more vigilant about those future opportunities that life will grace us with? Will we be ready this time around? Will we answer their call?

Often times, we live out our lives with regrets in tow. These regrets can be quite burdensome at times. We carry them on our shoulders and will not let them go. However, most, if not all, of these regrets should be abandoned to the realm of forgotten history. That is, whatever they may be, they can no longer affect us, unless we give them permission to do so. What is done is done. We must be realistic, and hold on to the hope of a better tomorrow. We have the power to prepare ourselves so as not to repeat those things we store in our "bag of regrets." We have the innate ability to change our patterns, our thinking, and our overall approach to life so that we do not stumble and create new regrets.

Danny Frederick Wallace, British filmmaker, actor, and author of notable books such as *Yes Man* and *Join Me*, tells us in his own forthright and practical manner: "Take the stupidest thing you've ever done. At least it's done. It's over. It's gone. We can all learn from our mistakes and heal and move on. But it's harder to learn or heal or move on from something that hasn't happened; something we don't know

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and is therefore indefinable; something which could very easily have been the best thing in our lives, if only we'd taken the plunge, if only we'd held our breath and stood up and done it, if only we'd said yes." Healing, learning, and growth can only happen by letting go of our regrets and actively exploring and determining what our future may look like. While it is true that many things may be out of our control, many other things will be within our control and within our ability to define.

Often times what we may regret about our past is no longer worthwhile or deserving of so much attention, time, and energy. In short, we can continue to empower our feelings of regret or we can choose to extinguish their hold on us. The truth is that some of the things we regret doing or that we regret happening can sometimes turn out for the better, for new opportunities present themselves in a course of a lifetime that can provide us with second chances or that afford us new and better opportunities.

For example, in my case, I wanted to be a Catholic priest, so I applied and was allowed to study for the priesthood...a celibate priesthood. About eight years into my studies for the priesthood, I met and fell in love with a young lady named Martha. At the time, I had mixed feelings about leaving behind what I considered to be a divine calling. I felt guilty about "abandoning" my vocation to the priesthood. However, I came to realize that I should not have any regrets,

because I had discovered the love of a woman that embraced my entire being. In time, I realized that I no longer had regrets for leaving the seminary. My calling was to become one with Martha. Instead of regrets, I became appreciative and thankful for all the good things seminary life gave me. Martha became my wife. She supported me through law school. She gifted me three cherished children. She gave me unconditional love. Today, she continues to be my anchor, my ideal woman, and my loving wife. Thus, while I no longer pursued life as a priest, another amazing opportunity presented itself to me, the opportunity to continue my life's journey as a husband, a father, and a family man.

All of us have our own stories of regret. However, many of these stories can continue on with newly created chapters, where we can author sequels with endings that we choose to create. These endings can be happy ones. They can be stories with wonderful and mesmerizing endings. They can be amazing stories of hope for a better tomorrow.

Dr. Steve Maraboli, the bestselling inspirational author of *Life, the Truth, and Being Free*, offers us this calculating thought: "We all make mistakes, have struggles, and even regret things in our past. But you are not your mistakes, you are not your struggles, and you are here now with the power to shape your day and your future." These words are indeed worthy of serious consideration, for they expound a reality that any reasonable man or woman can fully appreciate and relate to.

In essence, we hold the world in the palm of our hands to mold it in such a way that our future becomes a more promising future. In the process, of course, we also take ownership and accountability

for how we shape and form our personal world. However, as Maraboli also cautions, "The truth is, unless you forgive yourself, unless you forgive the situation, unless you realize that the situation is over, you cannot move forward." Once we let go of the regrets in order to move forward, then a rainbow of splendid things can happen. Maraboli describes it this way: "Incredible change happens in your life when you decide to take control of what you do have power over instead of craving control over what you don't." Let us, therefore, embrace our present opportunities, but let us not lose sight of the fact that we can simultaneously begin to create our future in the present.



Cases

M.W.H. v. R.W.

Jurisdiction over Custody Modification Petitions

The Alabama Court of Civil Appeals decided whether the juvenile court has subject matter jurisdiction over custody modification petitions.¹

In August 2006, under a custody modification petition, the DeKalb Juvenile Court set aside the default judgment which awarded custody of C.J.W. to his maternal grandparents and issued a new custody agreement.² A new custody agreement, issued in June 2008 after the grandparents petitioned for a modification of the mother's visitation rights, allowed for the maternal grandparents to maintain custody of C.J.W. but also allowed for the mother, M.W.H., to have specific visitation with C.J.W..³ The new order further required M.W.H. to pay \$150/month in child support and see a psychologist to address her manic depression.⁴ Finally, the order required M.W.H. to attend family counseling with her father, the guardian of her son.⁵

In June 2011, M.W.H. challenged the court's subject matter jurisdiction in deciding her custody modification petition. Further, she argued that even if the court did have subject matter jurisdiction, the court erred in applying the McLendon standard to her custody request.⁶ M.W.H. asserted that the court lacked subject matter jurisdiction over the current custody modification petition because the court lacked subject matter jurisdiction in the initial dependency petition filed by the maternal grandparents.⁷ M.W.H. argued first that the maternal grandparents did not file their original dependency petition with a juvenile intake officer. Second, the allegations of dependency were insufficient to warrant the juvenile court taking jurisdiction. Finally, there was no finding C.J.W. was dependent or the mother was unfit in the September 2006 judgment awarding custody to the maternal grandparents.⁸

This Court found that M.W.H.'s first argument lacked merit, citing its earlier decisions in *W.T.H. v. M.M.M.*, 915 So. 2d 64, 71-72 (Ala. Civ. App. 2005).⁹ In this case, it was undisputed that the dependency petition had not been signed or filed by a juvenile intake officer. However, the Alabama Court of Civil Appeals held that there was "no procedural irregularity". It ultimately decided that the juvenile court's dependency judgment was not void nor should it otherwise be reversed.¹⁰ The dependency petition had been verified by the petitioning party and had

been delivered to and filed with the clerk of the juvenile court.¹¹

The Court found no merit in M.W.H.'s second argument, indicating that in the original dependency petition both maternal grandparents alleged facts that, if found true, would result in a finding of dependency.¹² The Court also referenced a recent Alabama Supreme Court decision which stated when determining whether a child is in need of care or supervision pursuant to the definition of dependency, a juvenile court "must consider whether the child is receiving adequate care and supervision from those persons legally obligated to care for and/or supervise the child".¹³ *Ex parte L.E.O.*, 61 So. 3d 1042, 1047 (Ala. 2010). Although at the time of the original dependency petition C.J.W. was receiving care from his maternal grandparents because C.J.W. and his mother lived with them, they were not legally obligated to care for C.J.W..¹⁴

The Court also found M.W.H.'s final argument lacked merit. In *J.P. v. S.S.*, 989 So. 2d 591, 598 (Ala. Civ. App. 2008), this Court held "when the evidence in the record supports a finding of dependency and when the trial court has made a disposition consistent with a finding of dependency, in the interest of judicial economy this court may hold that a finding of dependency is implicit in the trial court's judgment".¹⁵ Therefore, M.W.H.'s assertion that the juvenile court lacked subject matter jurisdiction due to the lack of a specific finding of dependency is inaccurate.

1. M.W.H. v. R.W., No. 2110121 Ala. Civ. App. LEXIS 90 (April 13, 2012).

2. *Id.* at *2.

3. *Id.* at *3.

4. *Id.*

5. *Id.*

6. *Id.* at *6.

7. *Id.*

8. *Id.* at *7.

9. *Id.* at *8.

10. *Id.* at *8-9.

11. *Id.* at *9.

12. *Id.*

13. *Id.* at *9-10.

14. *Id.* at *10.

15. *Id.*

Additionally, the original custody agreement based on the dependency petition was entered into via agreement of the parties involved.¹⁶ M.W.H. acknowledged she was unable to care for C.J.W. alone, which supports a finding of dependency.¹⁷

Finally, the Court affirmed the juvenile court's use of the McLendon standard as the standard that a parent must meet before custody of their child will be modified. In *P.A. v. L.S.*, 78 So. 3d 979, 981 (Ala. Civ. App. 2011), this Court held the McLendon standard does apply to a petition to modify an award of "permanent" custody when made pursuant to a finding that the child was dependent.¹⁸ M.W.H. also argued that the juvenile court erred by concluding that the McLendon standard applied to her request for custody because there had not been a final judgment declaring the child dependent or finding M.W.H. unfit. In response, the Court concluded that the September 2006 judgment contained an implicit finding of dependency and was a final judgment.¹⁹

» [View case details](#)

NOTICE TO READERS : Decisions reported herein may not be final. Case history should always be checked before relying on a case. Cases and other material reported are intended for educational purposes and should not be considered legal advice. Featured cases are identified by NACC staff and our members. We encourage all readers to submit cases. If you are unable to obtain the full text of a case, please contact the NACC and we will be happy to furnish NACC members with a copy at no charge.

Do you know of an important case which you feel NACC members should be made aware of?

If so, please let us know. Email:
advocate@naccchildlaw.org.

16. *Id.* at *11.

17. *But see id.* at *11-12 n.4.

18. *Id.* at *14.

19. *Id.* at *16-17.



Policy & News

Abstracts Now Open – 36th National Child Welfare, Juvenile, and Family Law Conference

The NACC is now soliciting abstract submissions for the 36th National Child Welfare, Juvenile, and Family Law Conference, August 26-28 at the Hyatt Regency in Atlanta, GA! Deadline for submissions is February 1, 2013. We will notify you in April whether your abstract has been selected.

> [Submit your abstract now!](#)



Improving the Juvenile Justice System for Girls: Lessons From the States

The Georgetown Center on Poverty, Inequality and Public Policy has released this report which reviews the literature documenting girls' pathways into the juvenile justice system; examines recent gender-responsive, trauma-informed reform efforts; highlights reform efforts in three jurisdictions; and concludes with recommendations for future efforts at the local, state, and federal levels.

> [Read the report](#)

NPR Report: In Juvenile Detention, Girls Find Health System Geared To Boys

Teenage girls are being increasingly incarcerated each year, and this may be the only time they get health care. Unfortunately, it doesn't meet their health needs, because this system was geared towards boys. This story discusses a new system created specifically for girls.

> [Listen to the full story](#)

Report Shows Fewer Child Abuse and Neglect Incidents for Fifth Straight Year

The U.S. Department of Health and Human Services' Administration for Children and Families (ACF) released its annual report on child abuse and neglect: *Child Maltreatment 2011*.

> [Read the full report](#)

TRAINING CALENDAR

Webinar: Thursday, Jan 10, 2013 · 2:30pm

> [Trauma Informed Child Welfare: Expanding Trauma Informed Services in Child Welfare Systems](#)

National Child Welfare Resource Center for Organization Improvement helps support organizations committed to the welfare of children, youth and families and help them achieve better systemic outcomes.

January 24, 2013 · Washington, DC

> [Positive Outcomes for At-Risk Children and Youth: Improving Lives Through Practice and System Reform](#)

This symposium will focus on promoting effective solutions to the problems facing vulnerable young people.

February 24–27, 2013 · San Antonio, TX

> [Judicial Institute: Family Law](#)

This conference will provide the most current information and tools to family and domestic relations judges to improve case processing and outcomes for children, youth, families, victims.

April 14–17, 2013 · Washington, DC

> [Making Children and Families a Priority: Raising the Bar](#)

The theme for the conference is based on the CWLA Standards of Excellence National Blueprint.

September 15–18, 2013 · Dublin, Ireland

> [Thirteenth European Regional Conference on Child Abuse & Neglect](#)

The goal of this conference is to support individuals and organizations working to protect children from abuse and neglect worldwide.

Member Feature

Susan Deski, Solo Practitioner, Central Texas



Susan Deski is a licensed and recently certified Child Welfare Specialist. When she began her ad litem practice in rural Central Texas she quickly realized that many times the juvenile system (in delinquency and dependency hearings both) forgets to ask what the child wants. In light of this, Susan chose to make the focus of her practice child driven.

“So much of the time we seem to get caught up in what the law says and what is the ‘usual and ordinary’ practice that we seem to forget that the children need a voice” Susan explains. This concept quickly became evident when she was appointed as attorney ad litem for two children in the El Dorado FLDS matter.

“This was an entirely different culture than I had ever worked with and it was a bit tricky at times to represent the children and their wishes, while working to keep them in a safe environment”, according to Susan. She believes it is very important that we try while working with children to respect their cultural and religious beliefs at the same time as representing their legal interests in the juvenile system.

Recently, Susan was able to take advantage of the Southwest Airlines MEAP Program. Susan was appointed to represent a teenage child who was detained with several adults while crossing into Texas. The child, A.C., was on route to live with her mother in New Jersey whom she had not seen in five years, when the entourage was

detained. Through her membership in the NACC, Susan connected with several colleagues who were able to offer assistance and advice in determining if the mother’s residence would be safe and appropriate, which was of particular concern considering that the child had never been there. Susan was able to have a courtesy home visit done and then through the MEAP, Susan personally delivered A.C. to her mother in New Jersey.

Susan sometimes asks herself who in their right mind would do this type of work.

It’s certainly **not** 8 to 5, Monday through Friday... It certainly is **not** for the pay... It certainly is **not** for respect of peers who do not work with children (“How hard can it be — it’s just kids, right?”)... It’s **not** for the juvenile on whose behalf you beg and plead for probation, who then gets arrested again the next week, and the next week and the week after... It’s **not** for the outcry statements made to you that keep you up in the middle of the night.

It **is** for the kids whose parents find their way on the right path and make permanent changes in their lives... It **is** for the kids who get in trouble one time, and years later you get the college graduation announcement... It **is** for the phone call inviting you to the high school graduation since ‘Ms. Susan you are a part of the reason I am graduating’.

Do you know someone who does an outstanding job and deserves to be recognized?

Send an email with their basic information and why you’re nominating them to advocate@childrenscolorado.org.

Child Welfare Law Certification

Eligibility at a Glance

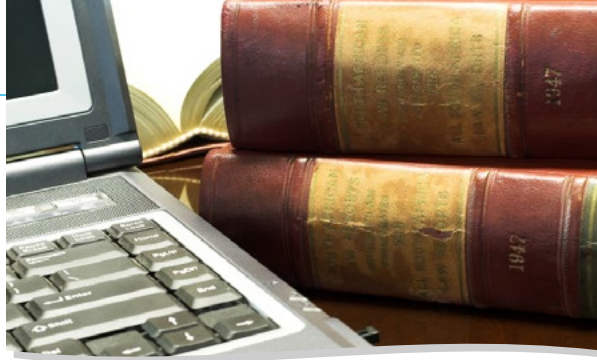
- 3+ years practicing law
- 30% or more of the last 3 years involved in child welfare law
- 36 hours CLE/3 years (45 hours/3 years CA only) in courses relevant to child welfare law
- A writing sample demonstrating legal analysis in the field of child welfare law drafted in the last 3 years (court memo, motion, brief, article, etc.)
- Substantial Involvement Waivers are available for judicial officers, professors, and policy/supervising attorneys

If you meet these basic requirements, we would love to have you apply while we have funding from Children’s Bureau to pay for your \$300 application fee!

To apply or for more information, please visit our Certification page at

www.naccchildlaw.org

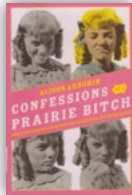
or contact Daniel Trujillo, 303-864-5359, or Daniel.Trujillo@childrenscolorado.org



Professional Resources

PUBLICATIONS

You now have the opportunity to purchase publications from the NACC Official Bookseller: [Bookworks](#). Available publications include:



[Confessions of a Prairie Bitch: How I Survived Nellie Oleson and Learned to Love Being Hated](#)

By Alison Arngrim

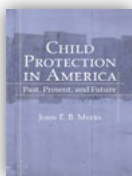
Paperback \$14.99

ISBN-13: 9780061962158

Availability: In Stock at Warehouse; Usually Ships in 1–5 Days

Published: It Books, 06/2011

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[Child Protection in America: Past, Present, and Future](#)

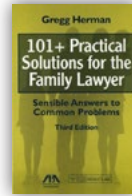
By John E. B. Myers

Google EBook \$39.95

ISBN-13: 9780195169355

Availability: In Stock at Warehouse; Usually Ships in 1–5 Days

Published: Oxford University Press, 07/2006



[101+ Practical Solutions for the Family Lawyer: Sensible Answers to Common Problems](#)

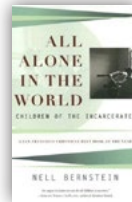
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Availability: Special Order; Price and Availability May Change

Published: American Bar Association, 05/2011



[All Alone in the World: Children of the Incarcerated](#)

By Nell Bernstein

Paperback \$16.95

ISBN-13: 9781595581853

Availability: In Stock at Warehouse; Usually Ships in 1–5 Days

Published: New Press, 08/2007



[The APSAC Handbook on Child Maltreatment](#)

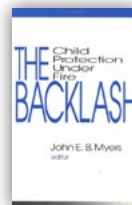
By John E. B. Myers, John E. B. Myers, APSAC (American Professional Society on the Abuse of Children)

Paperback \$120.90

ISBN-13: 9781412966818

Availability: In Stock at Warehouse; Usually Ships in 1–5 Days

Published: Sage Publications (CA), 06/2010



[The Backlash: Child Protection Under Fire](#)

By John E. B. Myers

Paperback \$65.00

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Availability: In Stock at Warehouse; Usually Ships in 1–5 Days

Published: Sage Publications (CA), 07/1994



[Child Maltreatment: A Collection of Readings](#)

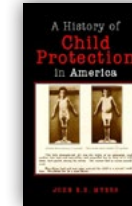
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As we begin a new year, the Board and staff of the NACC continually say **thank you** to all of our members for your continued support!

A big thank you to Southwest, the preferred airline of NACC!

Through the generosity of Southwest Airlines, NACC has been able to develop a Member Emergency Assistance Program (MEAP). A limited number of travel vouchers are available to current NACC members for work-related travel.

› [Learn more about this exciting member benefit](#)



NACC Mission

As a multidisciplinary membership organization, we work to strengthen legal advocacy for children and families by:

- Ensuring that children and families are provided with well resourced, high quality legal advocates when their rights are at stake
- Implementing best practices by providing certification, training, education, and technical assistance to promote specialized high quality legal advocacy
- Advancing systemic improvement in child-serving agencies, institutions and court systems
- Promoting a safe and nurturing childhood through legal and policy advocacy for the rights and interests of children and families