



Join us in Atlanta for the 36th National Child Welfare, Juvenile, and Family Law Conference!

Child law is rapidly changing, from the U.S. Supreme Court to the county courthouse. Don't miss the opportunity to join the national community of child advocates in Atlanta this August at the country's premier annual child law conference and training. Register now to take advantage of affordable, discounted room rates at the Hyatt Regency Atlanta, and join the nation's leading experts in a vigorous debate as together we shape the future of children in American legal systems. Build better outcomes for your clients, and a better career for yourself as a child advocate, and make this country a better place for children, youth and families — register now, and join us in Atlanta!

Strategies for Success: Enhancing Advocacy for Children, Youth and Families

Atlanta, GA • August 26-28, 2013
Pre-Conference August 25, 2013

> [REGISTER ONLINE NOW](#)

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.

In This Issue

Join us in Atlanta for the 36th National Child Welfare, Juvenile, and Family Law Conference

Strategies for Success: Enhancing Advocacy for Children, Youth and Families	1
The Conference	2
The Hotel	2
Sponsors	2
Continuing Legal Education Credits	3
Pre-Conference	3
Faculty	3
Program	4
Register Online Now!	7

Also in This Issue

Amicus: R.L.R. v. State	8
Case: Petitions to Adopt PUK DFK	9

NACC Executive Committee 2012–2014

President	Jan Sherwood
Vice President	Gerry Glynn
Treasurer	H.D. Kirkpatrick
Secretary	Erik Pitchal
Past Chair	Bob Fellmeth

The Conference

More than 36 years of experience has gone into developing this premiere three-day training, during which we will give you the most up to date knowledge and tools to advocate for your clients.

We know you have dedicated some of your practice to the representation of children and youth, parents, or the state in juvenile dependency, delinquency, or family law cases. This conference is the opportunity to come together with your fellow advocates to network and receive the most up-to-date resources available.

Due to the multidisciplinary nature of this work, we are bringing in professionals from the fields of medicine, mental health, social work, probation, law enforcement, and education, to both attend our conference and also serve as faculty.

The conference is comprised of Plenary Sessions and Breakout Sessions. Attendees are free to sign up for and attend any 1 of the 5 sessions offered during the Breakout Sessions. New this year, we will have the sessions broken out into 11 different categories.

For complete details, see the Conference section on our website at www.naccchildlaw.org.



The High Museum of Art

The Hotel

The NACC 36th National Conference will be held August 26-28, 2013 at the newly renovated Hyatt Regency Atlanta, Downtown Atlanta, GA.

This year the hotel is offering some great amenities to attendees:

- free wifi in your hotel room
- take advantage of the conference room rate for up to three days prior to and following the conference.

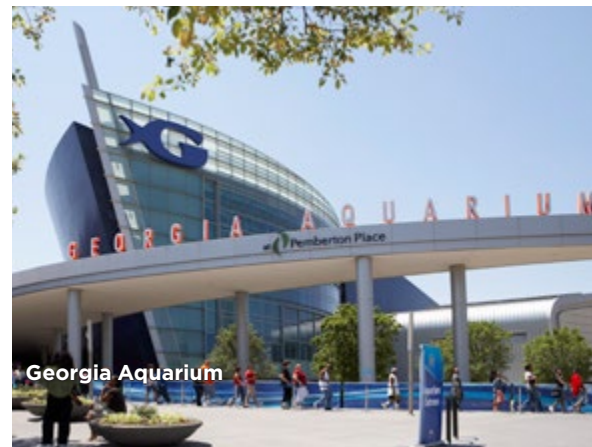
Room rate : Single \$125 / Double \$125

Cutoff Date : To receive the discounted room rate, reservations must be made by August 2, 2013

Reservations:

By phone:
1-888-421-1442; refer to the National Association of Counsel for Children Law Conference

Online:
https://resweb.passkey.com/Resweb.do?mode=welcome_ei_new&eventID=9466718



Georgia Aquarium

Sponsors

Conference Sponsorship is a great way to support the NACC and enhance your organization or company's visibility.

PLATINUM SPONSOR

Investment: \$ 10,000

GOLD SPONSOR

Investment: \$ 5,000

SILVER SPONSOR

Investment: \$ 2,500

BRONZE SPONSOR

Investment: \$ 1,000

In addition to special recognition at the NACC event of your choice, all sponsors receive:

- Your logo and website link on the NACC website for 6 months
- Special mention in the NACC e-Guardian
- Exhibit/Promotional space at the conference
- Recognition in the Conference Program
- Recognition in the 2013 Children's Law Manual
- Recognition in video signage at the conference

Contact conference@naccchildlaw.org for details.

Click the R to register online.

Continuing Legal Education Credits

NACC conferences are typically approved by the continuing education agencies in most jurisdictions and disciplines. A link to uniform certificates of attendance will be emailed post conference to all attendees. CLE Credit has been approved for the courses below.

Pre-Conference Red Book Training

Colorado	General: 7.8	Ethics: 1.2
California	General: 6.5	Ethics: 1

3-Day Conference

Colorado	General: 24.3	Ethics: 1.8
California	General: 20.25	Ethics: 1.5



Antebellum Buckhead Home

Pre-Conference

Sunday August 25, 2013

Red Book Training 9:00am-4:30pm

The course will follow the 2nd Edition of the Red Book (**Child Welfare Law and Practice: Representing Children, Parents, and State Agencies in Abuse, Neglect, and Dependency Cases**, Duquette and Haralambie, Bradford Publishing 2010). The course covers the major dependency practice competency areas and prepares attendees for the NACC Child Welfare Attorney Certification Exam.

Separate registration required; \$250 fee includes lunch and a copy of the Red Book.

Approved for CLE, including ethics.

CWLS Reception 5:00-6:30pm

Both experienced and newly certified Child Welfare Legal Specialists are invited to join us and get to know one another before the conference ramps up.



Centennial Olympic Park

FACULTY

Alavi, Roxanna, JD
Legal Advocates for Children & Youth
• SAN JOSE, CA

Aspurian, Nancy, JD
Children's Law Center of Los Angeles
• MONTEREY PARK, CA

Baynes-Dunning, Karen, JD
The College of Human Environmental Sciences at The University of Alabama • TUSCALOOSA, AL

Bledsoe, Janet, JD, LLM in Child Law
Administrative Office of the Courts
• LITTLE ROCK, AR

Boyd, Hon. Bradley
Fulton County Juvenile Court • ATLANTA, GA



Bridge, Justice Bobbe, JD, MA, PhC
Center for Children & Youth Justice
• SEATTLE, WA

Bross, Don, JD, Ph.D.
Kemp Center • DENVER, CO

Bruce, Hon. Gerald
Enotah Circuit Juvenile Court • DAHLONEGA, GA

Caley, Sylvia, JD, MBA, RN
Georgia State University College of Law, Health Law Partnership • ATLANTA, GA

Carter, Melissa, JD
Barton Child Law & Policy Center • ATLANTA, GA

Casey, Carol, JD
Cook County Office of the Public Guardian • CHICAGO, IL



Chasnoff, Ira, MD
Children's Research Triangle
• CHICAGO, IL

Cheung Marino, Jenny, JD
Children's Law Center of California
• MONTEREY PARK, CA

Cleary, Kathleen
Consortium for Children • SAN RAFAEL, CA



Courtney, Mark, Ph.D.
University of Chicago School of Social Service Administration
• CHICAGO, IL

Daniluke, Marcie, Peer Mentor
Dependency Advocacy Center • SAN JOSE, CA

Danz, Sheri, JD
Colorado Office of the Child's Representative
• DENVER, CO

Click the **R** to register online.

PROGRAM

Pre-Conference: Sunday, August 25, 2013 (See previous page for details)

9:00am-4:30pm **Red Book Training**

5:00-6:30pm **CWLS Afternoon Reception**

Monday, August 26, 2013

8:30-8:45am **Welcome**

Justice P. Harris Hines, Supreme Court of Georgia;
Kendall Marlowe, Executive Director, NACC

8:45-10:00am **Opening Plenary: Evidence Issues in
Juvenile and Family Court Practice**

John E.B. Myers, JD, University of the Pacific, McGeorge School of Law

10:00-10:30am **Coffee Break**

10:30am-Noon **Breakout Session A**

**1 : Can We Just All
Get Along? Including
the Child's Voice
in Custody and
Visitation Mediation**
Michelle Grasso,
LMSW; Dawn Post, JD

**2 : Don't Just Sit
There! Active
Investigation
and Advocacy for
Child's Counsel**
Nancy Aspaturian, JD

**3 : Medical-Legal
Partner-ships: A
Prescription for
Improving Child and
Family Well-Being**
Sylvia Caley, JD, MBA,
RN; Taylor Dudley, JD;
Astrid Heger, MD;
Robert Pettignano, MD;
Amy Zimmerman, JD

**4 : Enhancing
Attorney Advocacy for
Well-Being Outcomes
for Foster Children**
Lori Duke, JD;
Jenny Hinson, BA;
Rob Hofmann, JD;
Ian Spechler, JD

**5 : A Balancing Act:
Legal Representation
and Management
Duties**
Jenny Cheung
Marino, JD; Phyllis
Stricklan, JD

Noon-1:45pm **Lunch on Your Own OR Networking Lunch:
MISSEY & Project Respect: A Panel Discussion
on the Commercial Sexual Exploitation of Children**

Nola Brantley, MISSEY;
Justice Bobbe Bridge, Center for Children & Youth Justice
Space is limited; registration required to attend; \$50 fee.

Click
the **R** to
register
online.

Daulton, Kim, LICSW, LCSW-C

Children's Law Center · WASHINGTON, DC

Davies, Matthew, Ph.D.

Family, Adolescent, Child Treatment Services
· SALT LAKE CITY, UT

Del Plato, Lina G., JD

The Legal Aid Society Juvenile Rights Practice
· BRONX NY

Donnelly, Amanda, JD

Office of the Child's Representative · DENVER, CO

Dsida, Michael, JD

Children and Family Law Division—Committee
for Public Counsel Services · BOSTON, MA

Dudley, Taylor, JD

Alliance for Children's Rights · LOS ANGELES, CA

Duke, Lori, JD

University of Texas School of Law · AUSTIN, TX

Ewing, Rachel, JD

Los Angeles Dependency Lawyers
· MONTEREY PARK, CA

Feierman, Jessica, JD

Juvenile Law Center · PHILADELPHIA, PA

Fine, Lauren, JD

Juvenile Law Center · PHILADELPHIA, PA

Ford, Julian, Ph.D.

University of Connecticut Health Center
· FARMINGTON, CT

Good, Darice, JD, CWLS

Georgia Office of Family Representation
· ATLANTA, GA

Grasso, Michelle, LMSW

The Children's Law Center · BROOKLYN, NY

Grimm, William, JD

National Center for Youth Law · OAKLAND, CA

Haralambie, Ann, JD

Ann Nicholson Haralambie, Attorneys, PC
· TUCSON, AZ

Heger, Astrid, MD

University of Southern California Medical Center,
Violence Intervention Program · LOS ANGELES, CA

Heimov, Leslie, JD

Children's Law Center of Los Angeles
· MONTEREY PARK, CA



Henderson, Chris, JD

Rocky Mountain Children's Law Center
· DENVER, CO

2:00-3:30pm

Breakout Session B

1: Advocating for Children with Disabilities: Perspectives from Delinquency, Dependency and Education Law
Emma Hetherington, JD; Linda Pace, JD; Aarti Sharma, JD; Katherine Terry, JD, CWLS

2: Ethical Challenges for Children's Attorneys and Attorney GALs
*Ethics
Carol Casey, JD; Sheri Danz, JD; Michael Dsida, JD; Dianne Peterson, JD

3: Parental Alienation in Child Custody Cases
Ken Lewis, Ph.D.

4: The Importance of Fathers in Child Welfare
Rachel Ewing, JD; Phyllis Stricklan, MSN, LW

5: What, Really, is in the Best Interest of the Child?
Don Bross, JD, Ph.D.; Jane Okrasinski, JD

3:30-4:00pm

Break

4:00-5:30pm

Plenary I: Transitioning to Adulthood Under the Extended Foster Care Provisions of the Fostering Connections Act

Mark Courtney, Ph.D., University of Chicago School of Social Service Administration; Leslie Heimov, JD, Children's Law Center of Los Angeles; Christopher Wu, JD, Center for Families, Children & the Courts

5:30-6:30pm

Reception

Join your colleagues for a southern style welcome with appetizers and drinks. Network with experts from across the country.

Tuesday, August 27, 2013

8:00-8:30am

Everything You Never Knew to Ask About Starting an Affiliate

8:30-10:00am

Plenary II: Keeping Kids in School and Out of Courts

Judge Steven Teske, Juvenile Court of Clayton County, Jonesboro, GA

10:00-10:30am

Coffee Break

10:30am-Noon

Breakout Session C

1: Stopping the Negative Effect of Police Interaction with Youth Through Education and Advocacy
Cynthia Pong, JD

2: All Together Now: Infant and Early Childhood Mental Health Specialists, Child Welfare Staff, and Court Teams
Joaniko Kohchi, MSW; Clayton Latimer, JD

3: Effective Policy Advocacy in a Fiscally Conservative Era
Melissa Carter, JD; Karen Worthington, JD

4: I Lost My Lawyer's Number: Practical and Low-cost Interventions to Assist the Populations Often Present in Family Court Cases
BB Liu, JD; Lauren McSwain, JD

5: Advocacy in Cases of Parental Incarceration
Darice Good, JD, CWLS; Kirsten Widner, JD

Click the **R** to register online.

Hetherington, Emma, JD

Georgia Law Center for the Homeless · ATLANTA, GA



Hines, Justice P. Harris

Supreme Court of Georgia · ATLANTA, GA

Hinson, Jenny, BA

Department of Family and Protective Services · AUSTIN, TX

Hofmann, Rob, JD

Child Protection Court of the Hill Country · MASON, TX

Johnson, Diana Rugh, MS, JD

Southern Disability Law Group · ATLANTA, GA

Jones, Aurora, JD

The Martinez Jones Law Firm, PLLC · AUSTIN, TX

Kaye, Justice Judith

Supreme Court of New York
Skadden, Arps Law Firm · NEW YORK, NY



Kimball, Terri, MS

Center for Children & Youth Justice · SEATTLE, WA

Kohchi, Joaniko, MSW

Early Childhood Center, Children's Evaluation and Rehabilitation Center, Einstein College of Medicine · NEW YORK, NY

Langenderfer, Lisa, MSW

Graduate School of Social Work
University of Denver · DENVER, CO

Latimer, Clayton, JD

F. Clayton Latimer, Attorney at Law
· NEW ORLEANS, LA

Lawson, William, MD, Ph.D.

Howard University College of Medicine
· WASHINGTON, DC

Levick, Marsha, JD

Juvenile Law Center · PHILADELPHIA, PA

Lewis, Ken, Ph.D.

Child Custody Evaluation Services of Philadelphia, Inc. · GLENSIDE, PA

Liu, BB, JD

The Children's Law Center · BROOKLYN, NY



Marlowe, Kendall, AM, JD

National Association of Counsel for Children
· AURORA, CO

McSwain, Lauren, JD

The Children's Law Center · BROOKLYN, NY

12:15-1:45pm

Annual Luncheon: Changing the Narrative: Children in the Criminal Justice System

Bryan Stevenson, JD, Equal Justice Initiative Montgomery, AL



Mr. Stevenson is a widely acclaimed public interest lawyer who has dedicated his career to helping the poor, the incarcerated and the condemned. Under his leadership, EJI recently won an historic ruling in the U.S. Supreme Court holding that mandatory life-without-parole sentences for all children 17 or younger are unconstitutional. Mr. Stevenson will discuss the dramatic change in the way children are now treated as adults and sent to adult prisons sometimes for life and the impact these policies have had on families, communities and the nation. Poverty, race, disability have become factors that have condemned children, families. Can we change the narrative that has created the problems and create more hopeful outcomes for kids and families?

Space is limited; registration required to attend; no additional fee.

2:00-3:30pm

Breakout Session D

1: A View from the Bench

Hon. Bradley Boyd;
Hon. Amy Pellman;
Hon. Erik Pitchal

2: Working With Social Workers: A Multidisciplinary Approach to Child Advocacy

Kim Daulton, LICSW, LCSW-C; Tyra Moore, LICSW, LCSW-C; Alyssa Patzoldt, JD; Jess Sucherman, JD

3: Efficient & Effective: Colorado's Study of Multi-Disciplinary Law Offices

Amanda Donnelly, JD; Chris Henderson, JD; Lisa Langenderfer, MSW

4: Hearing Quality, Workload, and Case Outcomes in Juvenile Dependency Case

Alicia Summers, Ph.D.

5: Is There Really a Fundamental Right to Family Integrity?

Hon. Gerald Bruce

3:30-4:00pm

Break

4:00-5:30pm

Breakout Session E

1: Advocacy for Youth with Disabilities Transitioning from the Foster Care and Juvenile Justice Systems

Jennifer Pokempner, JD; Angie Schwartz, JD

2: Utilizing Psychological Evaluations in Delinquency Proceedings

Matthew Davies, Ph.D.; Pamela Vickrey, JD

3: The Special Needs of Adolescent Girls in the Child Welfare System

Karen Baynes-Dunning, JD; Karen Worthington, JD

4: Obtaining Social Security Benefits for Children and Parents Involved in Juvenile Court Proceedings

Diana Rugh Johnson, MS, JD; Joe Whitcomb, MS, JD

5: Psychotropic Medications—Too Much? Too Many? Too Young?: The Roles of the Attorney and Guardian Ad Litem

William Grimm, JD; Edward Opton, JD, Ph.D.; William Lawson, MD, Ph.D.

6:00-7:30pm

Movie: From Place to Place

This documentary tells the story of children who grew up in America's foster care system, aged out and went on to help lead efforts to radically reform America's foster care system. Popcorn and lemonade will be provided for viewers.

Space is limited; registration required to attend; no additional fee.

Moore, Tyra, LICSW, LCSW-C

Children's Law Center · WASHINGTON, DC



Myers, John E.B., JD

University of the Pacific
McGeorge School of Law
· SACRAMENTO, CA

Okrasinski, Jane, JD

Georgia Association of Counsel for Children
· ATHENS, GA

Opton, Edward, JD, Ph.D.

National Center for Youth Law · OAKLAND, CA

Pace, Linda, JD

DeKalb County Office of the Public Defender
· DECATUR, GA

Pattison, Brett, JD

Middleton Center for Children's Rights
at Drake University · DES MOINES, IA

Patzoldt, Alyssa, JD

Children's Law Center · WASHINGTON, DC

Pellman, Hon. Amy

Los Angeles County Superior Court
· MONTEREY PARK, CA

Peterson, Dianne, JD

Dianne Peterson, P.C. · LOVELAND, CO

Pettignano, Robert, MD

Children's Healthcare of Atlanta · ATLANTA, GA

Pitchal, Hon. Erik

Bronx Family Court · BRONX, NY

Pittman, Nicole

Human Rights Watch · PHILADELPHIA, PA

Pokempner, Jennifer, JD

Juvenile Law Center · PHILADELPHIA, PA

Pong, Cynthia, JD

The Legal Aid Society Criminal Defense Practice
· BRONX, NY

Post, Dawn, JD

The Children's Law Center · BROOKLYN, NY

Robinette, Renia, JD

Administrative Office of the Courts
· LITTLE ROCK, AR

Roy, Dylan, JD

Dependency Advocacy Center · SAN JOSE, CA

Saha Shah, Riya, JD

Juvenile Law Center · PHILADELPHIA, PA

Schwartz, Angie, JD

The Alliance for Children's Rights
· SAN FRANCISCO, CA

Click
the **R** to
register
online.

Wednesday, August 28, 2013

8:00–9:00am

Evaluating Attorney Representation in a Changing World

Janet Bledsoe, JD, LLM in Child Law; Renia Robinette, JD

9:15–10:45am

Breakout Session F

1: Considerations for Representing Parents in Family Drug Courts

*Ethics

Aurora Jones, JD

2: Cutting Ties or Preserving Family Connections through Open Adoption: Is Terminating Parental Rights and Closed Adoption Best for Our Kids?

Kathleen Cleary;
Marcie Daniluke, Peer Mentor; Dylan Roy, JD

3: Partnering with Our Clients in Court: How Youth Participation makes us more Effective Lawyers

Justice Judith Kaye;
Brett Pattison, JD;
Shari Shink, JD;
Trenny Stovall, JD

4: The Impact of Sex Offender Registration and Notification Laws on Youth and Constitutional Challenges to Limit Their Harmful Effects

Marsha Levick, JD;
Nicole Pittman;
Riya Saha Shah, JD

5: Trauma and Resilience: A New Look at Legal Advocacy for Youth in the Child Welfare & Juvenile Justice System

Jessica Feierman, JD;
Lauren Fine, JD;
Julian Ford, Ph.D

10:45–11:00am

Break

11:00am–12:30pm

Closing:

FASD as a Mitigating Factor in Litigation and Sentencing (Ethics)

Ira Chasnoff, MD, Children's Research Triangle Chicago, IL

Sharma, Aarti, JD

Fulton County CASA · ATLANTA, GA

Shink, Shari, JD

Rocky Mt. Children's Law Center · DENVER, CO

Spechler, Ian, JD

Disability Rights Texas · AUSTIN, TX



Stevenson, Bryan, JD

Equal Justice Initiative
· MONTGOMERY, AL

Stovall, Trenny, JD

DeKalb County Child Advocacy Center
· DECATUR, GA

Stricklan, Phyllis, MSN, LW

Children's Law Center of California
· MONTEREY PARK, CA

Sucherman, Jess, JD

Children's Law Center · WASHINGTON, DC

Summers, Alicia, Ph.D.

National Council of Juvenile and Family Court Judges · RENO, NV

Terry, Katherine, JD, CWLS

DeKalb County Child Advocacy Center
· DECATUR, GA



Teske, Hon. Steven

Juvenile Court of Clayton County
· ONESBORO, GA

Vickrey, Pamela, JD

Utah Juvenile Defense Attorneys
· SALT LAKE CITY, UT

Whitcomb, Joe, MS, JD

Rocky Mountain Disability Law Group · DENVER, CO

Widner, Kirsten, JD

Barton Child Law and Policy Center at Emory University School of Law · ATLANTA, GA

Worthington, Karen, JD

Karen Worthington Consulting · KULA, HI



Wu, Christopher, JD

Center for Families, Children & the Courts · SAN FRANCISCO, CA

Zimmerman, Amy, JD

Health and Disability Advocates · CHICAGO, IL

Click the **R** to register online.

REGISTRATION

NACC 36th National Child Welfare, Juvenile, and Family Law Conference August 25–28, 2013

Register at www.NACCchildlaw.org

NACC

e-Guardian July 2013

Vol 35 · No 07

www.NACCchildlaw.org



page 7



Amicus

R.L.R. v. State

The NACC signed on to an amicus curiae brief to the Third District Court of Appeal of Florida in the case of *R.L.R. v. State*. The issue presented in this petition before the court is whether an attorney must disclose a minor client's location after the client supplied the attorney with that information during the course of representation and insisted the information be kept confidential.

In 2008, R.L.R. was adjudicated dependent and placed into the care of the Department of Children and Families (DCF). Two attorneys were appointed by the trial court as pro bono Attorneys Ad Litem to represent the child pursuant to Florida Rule of Juvenile Procedure 8.217. R.L.R. had a history of running away from numerous DCF placements and did so again in April. The trial court ordered the attorneys to disclose R.L.R.'s whereabouts based on the concern DCF expressed for the child's well-being. The attorneys refused, however, claiming that R.L.R. had disclosed his location to them in confidence and thus this information was protected based on the attorney-client privilege. Although the trial court agreed the requested information did not fit into one of the two attorney-client privilege exceptions, it ordered the disclosure anyway, fearing that the minor could be a danger to himself otherwise.

According to The Florida Rules of Professional Conduct, "regardless of the circumstances, a lawyer providing limited representation forms an attorney-client relationship with the litigant,

and owes the client all attendant ethical obligations and duties imposed by the Rules Regulating The Florida Bar, including, but not limited to, duties of competence, communication, confidentiality and avoidance of conflicts of interest." Therefore, the attorneys representing R.L.R. in this matter have an attorney-client relationship with R.L.R. and are bound by, among other things, the rules of confidentiality of information.

2012 Florida Statutes Section 90.502 states, "[A] client has a privilege... to prevent any other person from disclosing, the contents of confidential communications when such other person learned of the communications because they were made in the rendition of legal services to the client."

Rule 4-1.6 of the Florida Bar further states that a lawyer shall not reveal confidential information concerning a client's representation unless it is necessary to either prevent a client from committing a crime, or to prevent death or substantial bodily harm to another. Since the trial court admitted neither of these exceptional circumstances occurred in R.L.R.'s case, the court should not have carved out a new exception altogether in order to force the attorneys to disclose R.L.R.'s whereabouts.

The court concluded by granting the petition, quashing the trial court's previous order, and finding that the order compelling the attorneys to breach their attorney-client privilege was a departure from the essential requirements of law for which there is no remedy on appeal.

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



Case

Petitions to Adopt PUK DFK

The Supreme Court of Minnesota considered whether the district court abused its discretion when it determined it was in the best interest of two African-American girls to be adopted by their white foster parents, rather than their grandparents.

P.U.K. and D.F.K. were born to parents who tested positive for cocaine. The girls displayed developmental delays, low birth rate, and other symptoms consistent with prenatal cocaine exposure and thus were placed in their current foster parents' home days after being born. The Hennepin County Human Services and Public Health Department filed a petition to terminate parental rights and as a result, the girls became wards of the state.

The girls' biological grandparents expressed an interest in adopting them in 2009, but would not complete the necessary procedures. In 2010, the County asked if the foster parents were willing to adopt the girls, and they in turn filed a petition to adopt. Just before this filing, however, the grandparents finally cooperated and then filed a petition to adopt roughly one month after the foster parents filed. The County notified the courts that it wished

to withdraw its support for the foster parents and instead support the grandparents' petition.

After considering both petitions, the court determined it was in the best interests of the girls to be adopted by their foster parents. The grandparents appealed to the court of appeals, who affirmed.

The grandparents then made two arguments before the Supreme Court of Minnesota: the district court erred (1) in its application of Minn. Stat. § 259.57, subd. 2(c), and (2) in concluding that the foster parents' adoption of the girls would be in the children's best interests.

The relevant Minnesota statute states "the court shall consider placement, consistent with the child's best interests and in the following order, with (1) a relative or relatives of the child, or (2) an important friend with whom the child has resided or had significant contact." The grandparents thought the court should have considered their petition in its entirety before addressing the foster parents' petition, but the supreme court disagreed. According to the supreme court, the statute required the district court to think carefully about the grandparents' petition first, but not to give preference to relatives over other individuals; this is especially due to the fact that previous statutes expressly stated a preference was warranted and no such language is present in the statute's current version. If both petitioners were equally qualified to adopt the girls, the grandparents would have been allowed to proceed over the foster parents. Since that was not the case here, the district court did not err in its application of Minn. Stat. § 259.57, subd. 2(c).

To determine what is in the children's best interests, courts look to several factors, including the medical and developmental needs of the children,

the children's relationship to current caretakers and relatives, and the children's cultural needs. The district court listed detailed findings and explained the reasons for its conclusion. Specifically, the court had concerns with the grandparents' ability to meet the girls' special needs and believed moving the girls could cause further damage. Though both the supreme court and court of appeals believe the district court oversimplified the girls' cultural needs, neither court believed this factor alone led to an abuse of discretion in this case and therefore, the lower courts' rulings were affirmed.

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@childrenscolorado.org.