April 4, 2007
Judiciary Committee

Testimony of Attorney Robin Roush In Support of Bill #1269

AN ACT CONCERNING THE QUALITY OF LEGAL REPRESENTATION OF CHILDREN AND YOUTH IN JUVENILE MATTERS

My name is Attorney Robin Roush and I am a child protection attorney representing children and parents in juvenile matters proceedings against the Department of Children and Families. I'd like to thank the Chairs, Senator McDonald and Representative Lawlor for this opportunity to be heard about the need to support the Commission on Child Protection's efforts to improve the system of legal representation for children and parents in juvenile court. The importance of a multi-disciplinary approach to representation in these cases, as well as taking the time to perform all the preparation, research, and follow-through necessary to advocate for one's clients is demonstrated by the following case study:

Trevol R. is a severely disabled child with an extremely rare genetic disorder (Cornelia de'Lange Syndrome) resulting in multiple handicaps including limb deformities, missing fingers, growth irregularities, and, in his case, the inability to speak. He was on a feeding tube for the first five years of his life, and weighed at best, 20 pounds. His mother had multiple stressors, including a limited education, 4 other children, an absent and allegedly violent husband, threat of eviction, high blood pressure which resulted in a mild stroke with the neglect petition pending. Her own mother had passed in the year before it was filed, leaving her vulnerable, and without meaningful family supports. Mother had issues with the school where my client had been assigned to one of the only "gravely disabled" classroom in the city. Despite all of this, mother loved that child more than I have ever seen a mother love anyone. I made several home visits, and, despite this obvious love, I was so alarmed I felt I must do some significant research, since nowhere else would this child ever receive the love his mother gave him, and worse, it seemed that no one else would ever love him at all, if he were removed. It seemed also that he was the only child not neglected in the home, but that, given the demands on mother's attention, his siblings' needs were definitely not being met. Because of a special needs directive from DCF, apparently his case became a priority, and the Department filed a Motion for his removal and commitment.

Of course, I objected for the child, as attorney and if I recall gal.

First, I went to Yale New Haven Hospital and read his entire record from birth to present. I made limited copies with my own funds. I did internet research on his condition, and came to understand that the frustrating mechanics of the feeding tube- not the mother- was the problem. Moreover, the child did not gain weight, not because of the feeding tube, but because of the growth anomalies inherent in the condition itself. The doctors explained that weight fluctuations were normal, but the DCF did not accept this. Any cancelled appointment was evidence of her neglect. So I had to confirm all of the appointments kept and missed, over the years prior,

and prepare a graph showing non-correspondence of missed appointments with weight fluctuations.

I found an organization which specializes in the disorder. I obtained his growth charts, to compare with those of similarly afflicted children, and I compared his abilities as I saw them with the developmental assessments I obtained from academic sources. I located the Physician-Director on the board of directors who not only volunteered to testify for the court about how the child would react to removal, and whether removal would improve the overall health of the child, but had planned to come by train from Philadelphia, at his own expense, to testify. This expert made excellent suggestions about the care of the child, and, referred us to the Chairman of Pediatrics, whom he personally knew, to make the referrals for services for the auditory, speech and vision screening and training this child would need. The doctor's testimony would have been that removal of the child would have catastrophic emotional consequences for the child, with permanent sequelae, and that he would next be re-traumatized if the Department sought to return him to his home. Since the law requires the goal of reunification of a committed child, removal would have, ironically, rendered that impossible. The Foundation sent to DCF its own educational materials at my request. Since the child was DMR, I filed a motion to cite them in to get them under orders; the judge denied it. I asked for a fee for the expert, the judge denied that. The judge felt no expert was needed to show neglect. On that rationale, I never billed for my overtime, or asked for extra hours. I prepared the case for a complete trial, planned to call the doctors, school people, neighbors and the expert, and perhaps someone from the agency. A psychological evaluation, ironically, said the mother was numerous and significant limitations, but also described her bond with this child as "perfect."

Instead, because of the multidisciplinary nature of the trial preparation process itself, a consensus was formed, and an agreement reached, to leave the child at home. It is worth noting that removal of this child would have been permanent, and he would have required round the clock special needs nursing care at an incalculable cost. During that consensus forming pre-trial time, the feeding tube issues resolved, the child began to grow at a good rate, the mother changed his school, new behavioral interventions were designed to help his caretakers and teachers deal with his very demanding day. There is no question that my client needed protective supervision as a special needs child. But I am convinced without my proactive involvement and willingness to basically work for free, this child would have been removed, institutionalized and would have suffered gravely.

I am able to maintain a very low case load, but many attorneys are not in a position to practice in this area without carrying a high case load. This is very demanding work that deserves to be properly compensated, not only in the interests of fairness, but most importantly in the interests of keeping caseloads down and the quality of attorneys up so that all children in the system can receive this type of attention to their best interest.

Respectfully Submitted,

Robin Roush
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