

MD CANI – The 1st 75 Days

CASE SCENARIO

Handout Number Three

ADJUDICATION HEARING

HELD ON MARCH 28, 2019

The Judge called the case and noted that a dependency petition had been filed on March 18, 2019, setting forth essentially the same testimony that came out at the Preliminary Protective Hearing, and seeking custody of both children. Judge Righteous read the Petition into the record and asked Lawyer Bill what his client's position was. Lawyer Bill stated that he had talked with his client before the hearing and that she really did not have any evidence to put up that would be different than what came out at the previous hearing, and that they were stipulating to dependency based on that evidence. Lawyer Bill asked if he could bring up an issue and, given permission by Judge Righteous, said that he had been doing some reading and he thinks we need to talk about the Indian Child Welfare Act. He said further that he has talked to his client and that she is not a member of a tribe, and as far as she knows neither her nor her children were eligible for membership. He just thought we need to get that in the record. Judge Righteous said, "I keep forgetting about that because, you know, we don't have many Native Americans around here, so it is easy to forget. I think I have had two or three the whole time I have been on the bench. But, thank you for getting that in the record." Really feeling his oats now, Lawyer Bill said, "Judge, Ms. Smith said her second cousin by marriage twice removed is willing to take her and her children in while this case is going on." Case Manager Dodson said, "Judge, the mother's whole family has prior history with the Division, so we can't place the children there with or without the mother being there." Judge Righteous replied, "Well, placement is up to DFCS, so you will need to take that up with them. I can't do anything about that." Lawyer Bill replied, "Yes, Your Honor." Without further inquiry, Judge Righteous thanked the parties for working everything out and saving the time of a hearing, accepted the stipulation, found the children to be dependent, placed them in the custody of the agency, and set the disposition hearing for April 25th.

Points for discussion:

GROUP 1 – Based on the information from the presentation, compare what SHOULD have occurred during this hearing to what ACTUALLY happened. Do not limit your discussion to the following questions, but be sure to include:

- What allegations in the petition have been proven or admitted, if any?
- Are there specific allegations as to each parent?
- Is there a legal basis for continued court and agency involvement?
- If the children are dependent, clearly articulate the basis of dependency.

GROUP 2 –

- What efforts have been made since removal to return the children home?
- What could/should have been done, if anything, between the PPH and this hearing?
- Discuss diligent search efforts. Were efforts sufficient, and if not, what else should be done?
- Where will the children be placed pending the disposition hearing?
- Are there any orders the court should consider entering other than the adjudication order?