

IN THE JUVENILE COURT OF *** COUNTY**

STATE OF GEORGIA

IN THE INTEREST OF:) **CASE NO.:** *****
)
*****) **DOB:** *****; **AGE:** *****; **SEX:***
)
Minor child under 18 years of age)

**MOTHER’S OBJECTION TO PROPOSED AMENDED
CASEPLAN DATED 8-17-15**

Comes now, ***** , Mother of the child in the above-referenced case, by and through her undersigned counsel, and files this Objection to the Proposed Amended Caseplan dated 8-17-15, and shows this Honorable Court the following:

Procedural History

The Disposition Hearing in the above-referenced case was held on March 4th, 2015, at which time the Court heard argument on Mother’s caseplan goals. Mother’s initial reunification caseplan was subsequently amended consistent with the Court’s direction and filed on April 20, 2015. The April 20th caseplan contained the following primary reunification goals for the Mother:

- A. Mother must complete a psychological and fitness to parent evaluation;
- B. Mother must comply with the recommendations of the psychological and fitness to parent evaluation;
- C. Mother must participate in the CCFA;
- D. Mother must follow the recommendations of the CCFA;
- E. Mother must pay child support while child is in DFCS custody; and,
- F. Mother must follow doctor’s orders regarding child being formula fed pending further recommendations from doctor and/or order of the Court.

The Initial Review Hearing was held on April 30th, 2015. The Mother’s psychological/fitness to parent evaluation was provided to the Department and filed with the

Court under seal. In the Initial Judicial Review Order, the Court ordered the Department to complete another amended caseplan for the Mother incorporating the recommendations from the Mother's evaluation. Despite the Court's Order, no caseplan was ever filed or provided to the Court or the parties subsequent to the April 20th caseplan. Counsel for the mother requested updated caseplans from the clerk of court on July 27th and verified that none had been filed. Counsel for the mother requested an updated caseplan from the Department on July 29th, 2015 and none was provided.

On August 10th, 2015, the Mother filed a Motion for Return of Custody based on her substantial compliance with the Court-Ordered caseplan. The Mother's Motion for Return of Custody was set for a hearing on September 3rd, 2015, along with a Periodic Review Hearing.

On August 14th, 2015, in preparation for the hearing on Mother's Motion to Return Custody, Mother's counsel requested mandatory discovery from the Department. On August 24th, 2015, in response to Mother's mandatory discovery request, the Department produced a proposed amended caseplan dated August 17th, 2015. The August 17th caseplan was never reviewed with the Mother despite weekly telephone and email contact and monthly face to face visits between the Mother and the case manager. Mother received no written notice of the caseplan meeting as required by O.C.G.A. § 15-11-200. Mother was afforded no opportunity to participate in the development of the August 17th caseplan nor was she advised of her right to object to amendment of the caseplan. Mother was never provided with a copy of the August 17th caseplan by the case manager either in person or via mail or email.

The Department contends that the August 17th caseplan is identical to the April 20th caseplan but for the addition of the goals corresponding to the recommendations in the Mother's psychological/fitness to parent evaluation. The Department entered the August 17th caseplan into evidence at the Return of Custody/Review Hearing on September 3rd, 2015, requesting that it be adopted by the Court and incorporated into the Court's Review Order. Mother's counsel objected and requested time to file a written objection. Both hearings were recessed following the close of the Department's evidence and are set to resume on October 6th, 2015.

Argument

The Mother objects to the August 17th caseplan as written and respectfully requests that the Court reserve its ruling as to the adoption of the August 17th caseplan pending presentation of Mother's evidence on October 6th, 2015. In support of her objection to the August 17th caseplan, Mother shows as follows:

A. Steps 1-3. (1) Mother would benefit from individual therapy to address her current stress levels and underlying psychological conditions; (2) Clinical attention should also focus on Mother's sense of paranoia and helping her to understand how her views of others may be impacting her behavior, as well as helping her to accurately interpret the actions of others; (3) Clinical attention should be given to address the reported miscommunication with DFCS, which has been perceived as noncompliance. The clinician should work on developing communication skills to assist Mother in improving her communication with the various individuals involved in the child's care.

Steps 1 – 3 track the language of the recommendations of the psychological evaluation with regard to the focus of the Mother's therapy. These recommendations are meant to guide the therapist's focus with the Mother based on her testing results. None of the above-referenced steps identify a specific action for the Mother to complete pursuant to O.C.G.A. § 15-11-201(b)(4). The goals have no assignment of specific responsibility for accomplishing the planned activities as required by O.C.G.A. § 15-11-201(b)(5). As written, the goals establish impermissible barriers to reunification based on the conduct of someone other than the Mother.

The Status of “no progress” on Steps 1 – 3 is not correct as Mother has been attending individual therapy for almost three months. Mother has provided this information to the case manager.

Counsel requests the following goal replace Steps 1 – 3: *The Mother shall participate in individual therapy pursuant to the recommendations of her psychological evaluation. The Mother shall ensure that the therapist is provided with a copy of her evaluation and therapeutic goals as well as [the evaluator's] contact information.*

Counsel further requests that the status of said goal be changed to “Ongoing.”

B. Step 4. Clinical attention must be given to determining how Mother and Father can co-parent.

Step 4 tracks the language of the recommendations of the psychological evaluation with regard to co-parenting instruction. The goal has no assignment of specific responsibility for accomplishing the planned activities as required by O.C.G.A. § 15-11-201(b)(5). As written, the goal establishes impermissible barriers to reunification based on the potential conduct of individuals other than the Mother – in this case the therapist and/or the Father.

The Status of “no progress” is not correct as Mother has been attending individual therapy for almost three months. Mother has provided this information to the case manager. Counsel therefore requests that the status of the above-referenced goal be changed to “Ongoing.”

Counsel requests the following goal replace Step 4: *The Mother shall participate in co-parenting counseling with the Father pursuant to the recommendations of her psychological evaluation.*

Counsel further requests the addition of the following goal: *DFCS shall make a referral for coparenting counseling for Mother and Father.*

C. Step 5. Mother will pay child support for child while she is in DFCS custody.

The Mother has no objection to the goal as written. Said goal is present in the current April 20th caseplan.

The Status of “no progress” is not appropriate as the Mother has no control over when child support services will proceed with her case. The Mother continues to bring food, clothing and diapers to visits to provide some means of support to the placement until child support is in place. Mother requests that the status of the above-referenced goal be changed to “Ongoing.”

D. Step 6. Mother will follow the doctor’s orders regarding child being formula fed until further recommendations are made by the court or changes are made by the doctor.

The Mother has no objection to the goal as written. Said goal is present in the current April 20th caseplan.

The Status of “Ongoing” is incorrect as the Mother has achieved this goal. The Department admits same in the Comments section. Mother therefore requests that the status of the above-referenced goal be changed to “Achieved.”

E. Step 9. Mother must comply with the recommendations of the psychological evaluation and fitness to parent assessment combined.

The Mother has no objection to the goal as written. Said goal is present in the current April 20th caseplan.

The Status of “no progress” is incorrect. The Mother has substantially complied with the recommendations of her psychological/fitness to parent evaluation and has provided said information to the case manager. Mother therefore requests that the Status of the above-referenced goal be changed to “Achieved” or “Ongoing.”

F. Step 11. Mother must follow the recommendations from her CCFA.

The Mother has no objection to the goal as written. Said goal is present in the current April 20th caseplan.

The Status of “Ongoing” is incorrect. The Mother has substantially complied with the recommendations of the CCFA and has provided said information to the case manager. Mother therefore requests that the status of the above-referenced goal be changed to “Achieved.”

G. Steps 12-13. (12) Mother must complete a domestic violence assessment, (13)

Mother must follow the recommendations of the domestic violence assessment.

The Mother objects to Steps 12 and 13 insofar as the Court ruled at the disposition hearing on March 4th, 2015 that the goals concerning domestic violence assessment/adherence to recommendations were to be secondary goals as domestic violence is wholly unrelated to the basis for removal of the child in the instant case. Mother therefore requests that Steps 12 and 13 be removed.

H. Step 14. Mother will participate in parenting classes to include an assessment to determine what Mother's level of understanding is regarding child's needs, the reason for her prior inability to meet child's needs appropriately regarding food, and what changes she would need to make to adequately meet child's needs in the future if she were to be reunited. A meeting with a medical professional would be helpful to ensure that Mother has a clear understanding of child's previous medical issues and what is expected of her regarding feeding if child is returned to her care.

Mother has no objection to the goal as written.

The Status of "no progress" is incorrect. The Mother has substantially complied with this goal and has provided said information to the case manager. Mother therefore requests that the Status of the above-referenced goal be changed to "Achieved" or "Ongoing."

I. Step 15. Visitation should continue to be supervised at this time and should include monitored feedings with a professional present in the visit to provide supervision and education regarding appropriate feeding. When there are minimal concerns about Mother's ability to meet child's needs and to engage in appropriate feeding practices, visits should no longer and eventually become unsupervised.

Step 15 tracks the language of the recommendations of the psychological evaluation with regard to the recommendation for visitation between the Mother and child. The goal does not identify a specific action for the Mother to complete pursuant to O.C.G.A. § 15-11-201(b)(4). The goal has no assignment of specific responsibility for accomplishing the planned activities as required by O.C.G.A. § 15-11-201(b)(5). The language in the August 17th caseplan that visitation should continue to be supervised "at this time" was taken verbatim from the psychological evaluation completed six months earlier in February of 2015. The goal as written is misleading and prejudicial to the Mother.

Counsel requests the following goal replace Step 15: *The Mother shall visit with the child as ordered by the Court.*

J. Step 16. Per the recommendations of the initial psychological evaluation it was recommended that the Department reevaluate Mother under less adversarial conditions in order to get better diagnostic clarity regarding her psychological functioning and treatment planning.

Mother objects to Step 16 as a misinterpretation of the recommendation in the Mother's psychological evaluation. The evaluation simply states that "[i]t *may* be beneficial to reevaluate Mother under less adversarial conditions in order to get better diagnostic clarity . . ." [emphasis added].

Dr. XXXX's testimony on September 3rd 2015 was very clear that the Mother fully cooperated with the psychological and parental fitness evaluation and that she answered questions honestly and did not invalidate any portion of the testing. Dr. XXXX testified that the Mother's testing results did not yield an Axis I or Axis II Diagnosis. Dr. XXXX further testified that it would not be helpful for the Mother to be tested again under adversarial conditions (i.e. her child still in DFCS custody). *See* Affidavit of Dr. XXXX, attached hereto as Exhibit "A" and incorporated herein by reference.

The Mother submitted to a full day of testing and two separate interviews in February of 2015 in order comply with the requirement that she submit to a psychological evaluation as soon as possible. The Department, according to its own testimony, did not make a referral for the additional psychological evaluation it is now requesting from the Mother until July 14th, 2015, two and a half months after they received Mother's initial evaluation. The Department did not attempt to add the goal of an additional psychological and parental fitness evaluation to the Mother's caseplan until August 17th, 2015, one week after Mother filed her Motion for Return of Custody of the child.

Mother shows there is no legal basis for requiring an additional psychological evaluation in the instant case. Mother was required to "cooperate with the provider and complete a psychological evaluation and parental fitness assessment combined." She complied with this requirement by submitting to testing one month after her child came into the Department's care. The Court heard expert testimony that the psychological evaluation is a valid measure of the Mother's functioning. No party has introduced evidence to the contrary. No party has questioned the credentials of Dr. XXXX

(qualified as an expert in conducting and interpreting psychological and fitness to parent evaluations) or the quality or accuracy of the evaluation or the testing measures used. On September 3rd, the Department was allowed over counsel's relevancy objection to question Dr. XXXX regarding symptoms of severe mental health disorders and insinuate that the Mother suffered from any number of them despite the fact that Dr. XXXX testified repeatedly that the testing was valid, that the Mother cooperated, and that the results did not yield any diagnosis. During said hearing, the Department referred to Dr. XXXX's inability to "find" a diagnosis on the Mother "unfortunate."

Given the clear posture of the Department with regard to the Mother, requiring her to submit to an additional unnecessary psychological evaluation at this late stage of the dependency case is extremely prejudicial to her chances of reunification.

Based upon all of the foregoing, Mother respectfully requests that Step 16 be removed in its entirety.

K. Comments

The Comments sections throughout the August 17 caseplan are inaccurate, combative and indicative of the Department's overall attitude towards the Mother. Mother requests that the Comments section of each goal be redacted.

L. Requests for modification of DFCS standard goals

- a. Step 2. Placement Resource and/or DFCS will schedule child's medical appointments. *Case manager will ensure these appointments are noted in the child's record.*** [Emphasis added].

Counsel for Mother respectfully requests that the status of the above goal be modified to "Not Achieved" based on the case manager's testimony on September 3rd, 2015, during which she indicated that none of the child's doctor's appointments were referenced in the DFCS records.

- b. Step 5. *DFCS will communicate with child's physician regarding her failure to thrive and monitor her progress while in foster care.*** [Emphasis added.]

Counsel for Mother respectfully requests that the Status of the above goal be modified to "Not Achieved" based upon the case manager's testimony

on September 3rd, 2015, during which she stated that she had never spoken with the child's doctor.

WHEREFORE, the Mother prays that this Court:

1. Reserve ruling on the caseplan and the instant objection until the conclusion of evidence in the currently recessed hearings;
2. Reject the August 17th caseplan in its entirety or, in the alternative, modify the August 17th caseplan as requested by Mother; and,
3. Grant the Mother any such further relief as the Court sees fit.

Respectfully submitted this the _____ day of _____ 2015.

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