November 21, 2019

Christine Beyer, Commissioner

Department of Children and Families

50 East State Street, 2nd Fl.

PO Box 729

Trenton, NJ 08625

Re: Matter of SJ, Child in Care

**The Division’s Ongoing Failure to Protect and Provide Permanency For a Two-Year-Old Child in it’s Care Since Birth in Contravention of state law and Supreme and Appellate Court holdings**

Dear Commissioner Beyer:

I am requesting an immediate investigation into the granting of kinship legal guardianship to Ms. AB, paternal grandmother of SJ. I also respectfully request that the Division move the Court for an immediate stay of the removal of S from her pre-adoptive home. I believe that upon your reading of this correspondence, you will agree that S removal must be stayed and that a thorough investigation is indeed warranted.

Issues

1. The social workers, supervisors, and acting Local Office manager of the Mercer North local office have acted in contravention of N.J.S.A. 3B:12A-6d(3) and the holdings of the New Jersey Supreme Court and Appellate Division.
2. The Division’s Mercer North office has chosen to remove a 2 and one half year old child from her pre-adoptive home, where she has lived for nearly 2 years, against the recommendations of two psychologists, including one retained by the Division itself.
3. A paternal grandmother, having had knowledge of the state’s custody of the child for 2 years, but having never sought to see the child or seek custody, has been granted kinship legal guardianship in contravention of N.J.S.A. 3B: 12A-6d(3) and the holdings of the New Jersey Supreme Court and Appellate Division. Including, the court’s holding that *a kinship legal guardian may only be appointed when ‘adoption of the child is neither feasible nor likely (quoting N.J.S.A. 30:40:4C:15.1(3) (b))*
4. The Mercer North Office has hidden its intentions, sought and secured a court order granting custody to the child’s grandmother despite the grandmother’s repeated claims that se will not adopt the child.
5. The Division has refused to investigate allegations that family members who are known drug users live in or frequent the home of the grandmother. Visits have been conducted at the home of the grandmother while the child’s biological father was present, despite father’s own acknowledgment that he had been accused of sexually abusing his son, and his history of ongoing alcohol and drug abuse.
6. The Division insisted on the immediate removal of this child from the only home she has known without any plan for transition, opting to only to provide services after the child has been moved.

Pertinent Facts

On March 27, 2018, then eight-month old SJ came into my home. She had been in care since birth, as her mother suffers from addiction and had exposed S to alcohol and cocaine in utero. While I was able to learn about the drug exposure by pointedly asking, what I did not know was that S had been moved 5 times in her short life an my placement would be her sixth. In hindsight, it appears that the Division was on the right track. They had determined to only place S in a pre-adoptive home so that she would have the stability she desperately needed. There was a statewide call for a pre-adoptive home for S because no one, relative or friend, had come forward to care for her. I received a call from my Family Worker in the Middlesex office asking would I become S resource parent, I agreed. It was one of the best decisions I have ever made.

Since S placement with me she has battled through illness, separation anxiety and the effects of known and unknown trauma. Through love, consistency and laughter, she had become a happy, bright and well-adjusted child. I was asked, and I agreed that I commit to adopting S should her mother’s recovery be unsuccessful. Her last placement ended after only 2 short weeks when, among other issues, the foster parents expressed that they would be unwilling to adopt S because they believed that she would eventually present with developmental issues due to her exposure to alcohol and drugs.

My excitement at being a resource parent quickly faded. Since her placement, I have witnessed the Division of Child Protection and permanency’s (the Division) representatives in the Mercer North office neglect, ignore and fumble issues related to SJ care and wellbeing. I have observed the workers act in a manner that appears designed to not only destabilize her, but also violate its own guidelines related to the continuity of her care and permanency.

Most recently, Mercer North workers, their supervisors and the interim acting Local Office Manager have collaborated to deny SJ permanency in violation of the division’s own policies and New Jersey’s Supreme Court and Appellate division’s holdings regarding permanency. Specifically, despite nearly 2 years in my home, 2 psychologists’ recommendation’s that SJ not be removed, and the Guardian Ad Litem’s passionate insistence that SJ be allowed permanency via adoption, the Division veered off in a completely different direction and strongly supported and urged the granting of SJ grandmother, with whom SJ has had no relationship for the first 2 years of her life, Kinship Legal Guardianship.

Granted, I am new to foster care; and perhaps under different circumstances this would have been appropriate, but not here. In this instance, SJ paternal grandmother has never been a part of her life. While it is documented that she was aware that her son had yet another child in the system, for 2 years she never sought to discover who SJ was or how she fared. When the Division scheduled a first time visit for the grandmother and SJ 2 half siblings she made it clear that she would be unable to care for SJ. Perhaps her position is understandable given that AB is a single, 70 year old, that works full time and cares for her 9 year old and 15 year old grandchildren in the absence of their mothers and their father, her son. Most notably, she recently surrendered custody of the 15-year-old male child to the Division where he remained in care for some time, as she was unable to help him manage his behavior. He is now back in the home, but it is unclear whether he is getting any individual and/or family counseling to help him process what must have been a terribly traumatic experience. This causes me concern considering that SJ is only 2, unable to defend herself and without the ability to fully articulate ideas. As a former school Principal and Special Education specialist I am fully aware of how trauma may manifest as explosive anger, bullying behavior and more.

With regard to her grandson, the Division initially reported that her conduct, given the way in which she surrendered him to the Division, was inappropriate. However, when SJ Law Guardian raised it as one of the myriad reasons why she should not be granted custody, the Division conveniently changed its position and insisted that she had acted appropriately.

The Rush to Destabilize SJ

Since that time, I have witnessed the Division send SJ on two 6 hour unsupervised visits to the PGM’s home, causing SJ emotional disturbance, night terrors, and what I can only describe as a profound sense of insecurity. Despite having placed my concerns in writing, providing an audio of a night terror that occurred after the first 6-hour visit, no one ever made an attempt to investigate or even discuss the matter with me. In fact, they immediately scheduled another 6 hour, unsupervised visit for the following week. Upon her return from that visit, she remained ill the entire weekend due to diarrhea.

The Mercer North office has engaged in what can only be described as a pattern of shockingly unethical and unprofessional conduct to the detriment of SJ and myself even. Most notably, SJ social worker revealed to the grandmother and biological parents my Profession without my knowledge and consent. Needless to say, due to the sensitive nature of my work, I have been exposed to an ongoing possibility that someone may use this information to harm my reputation or me.

I am profoundly disgusted by the Division’s rush to deny SJ the permanency of adoption and instead push for Kinship Legal Guardianship. To achieve its aim, the workers, supervisors and attorney misrepresented facts to the Court, withheld pertinent information and changed the narrative as it relates to SJ grandmother. Now, as recently as yesterday, I received a phone call in response to an email I sent seeking information about the abrupt move from my home to the grandmother’s home. At that time, through the course of the discussion, I was advised by acting Local Office Manager, Deborah Gomez that the division had not changed SJ goal from adoption, but rather the Division was merely a powerless bystander in the matter and its hands are clean with respect to this new placement. All such assertions, given the record, can only be seen as calculatingly dishonest. It is clear that the Mercer North Office on behalf of the Division has acted in violation of New Jersey state law.

The Law is Well Settled

The Division as represented by the Mercer North Local Office, has ignored the New Jersey statue that states:

*If reunification efforts are not successful, adoption is the preferred plan. Adoption provides a child with the highest level of legal and emotional security. Before appointing a kin caregiver as a kinship legal guardian for a child, the Act also requires the court “to consider the Division’s actions regarding reunification of the child and his and her family, whether adoption of this child is neither feasible nor likely, and whether kinship legal guardianship is on this child’s best interest as a permanent placement.” (N.J.S.A. 3B:12A-6d(3)))*

*The law is well settled as: New Jersey Supreme Court and Appellate Division have held that:*

* *Adoption provides a more permanent alternative for the child that KLG and is the preferred alternative: and*
* *In order to award kinship legal guardianship, there must be “clear and convincing proof” that adoption is not feasible or likely and that KLG is in the Child’s best interests.*

Consider also, NEW JERSEY DIVISION OF CHILD PROTECTION AND

PERMANENCY v. M.M.

The Division and the Law Guardian both argue that KLG was unavailable in this matter because an adoption is “feasible and likely”, relying on our decision in N.J. Div. of Youth & Fam. Servs. v. T.I.. 423 N.J. Super. 127, 130 (2011) (the “neither feasible nor likely” clause required for a KLG cannot be met “when a caregiver in a case brought by [the Division] unequivocally asserts a desire to adopt”).

The above-listed New Jersey statue and supporting case law, if properly applied, would have lead to only one finding, that SJ must remain in her current pre-adoptive home and be allowed the permanency that adoption can give her.

Current Issue of Particular Urgency

SJ is scheduled to be removed to her grandmother’s home today, November 22, without any plan for transition as was urged by one of the psychologists, should the Division choose to ignore the experts’ recommendation to allow her to remain in her current pre-adoptive home.

I am requesting a review of the record and thorough investigation of the matter of SJ. Further, I am requesting that the Division seek a stay of the removal until the investigation has been concluded; and, thereafter allow the required legal actions to resume leading to permanency. A stay would not result in any harm to SJ and would allow time to ensure that all subsequent actions are consistent with best practices and New Jersey law.

I anxiously await your response.

Sincerely,

Anonymous

Cc:

Gurbir S. Grewal, Attorney General

Erin O’Leary, Assistant Attorney General

Cynthia Schappell, Assistant Attorney General

Lori DeCarlo, Assistant chief, Deputy Attorney General

Mira Orizovic, Assistant Chief Deputy Attorney General

Bonny E. Fraser, Esq., Deputy Commissioner

Carmen Diaz-Petti, Assistant Commissioner

Darlene Fusco, Deputy Director