

8/31/2013

Dan Ruben
Executive Director
Equal Justice America, Building II - Suite 204
13540 East Boundary Road
Midlothian, VA 23112

Dear Mr. Ruben:

I want to thank you for allowing me and other law students to work in public service. Without your funding, I simply would not have been able to have such an amazing summer experience nor further develop my commitment to working in the public sector. This summer I worked for the Harvard Legal Aid Bureau's (HLAB) Family Practice where I represented thirteen clients with issues of domestic violence, divorce, custody, and unpaid wages. It was an incredibly tolling, emotionally exhausting, and eye-opening experience. In a word, it was perfect.

My most significant case involved helping a non-custodial father obtain primary physical custody of his nine year-old child. Like most cases HLAB takes on, the case had many legal obstacles and an absolutely deserving client. To name a few of the legal obstacles: 1) The mother obtained an ex parte restraining order against the father; 2) the father had unknowingly signed away his parenting rights before he obtained legal counsel; and 3) the mother had primary physical custody of the child for the last fifteen months, making staying with her seem to most triers of fact like the status quo and in the best interest of the child. The HLAB student working on the case before me spent a year proving that the father was not violent and that the mother sought the restraining order primarily to gain an advantage in the ongoing custody proceeding (which the father filed two weeks before the mother filed the restraining order). Thankfully, after a full evidentiary hearing, the restraining order was vacated. The student also successfully overcame the second obstacle by arguing that the father's signing away his rights was either a mistake or misrepresentation by the mother's legal counsel. Thus, what remained for me was proving that the father should have primary physical custody of the child.

At the time, the child was enrolled in a school directly across the street from the father in South Boston; however, the mother was filing papers to transfer the child to a more convenient school for her in West Roxbury. In Massachusetts, whichever parent has primary physical custody of the child gets to choose where the child goes to school, irrespective of the non-custodial parent's objections. Because of this, I argued that the court should appoint a Guardian ad Litem (GAL) to determine which parent should be the primary custodian. I also requested the court to not allow the mother to enroll the child until we received the GAL report. The court agreed and ordered the GAL to issue an emergency report on the issue of school placement and custody.

During this time I was in constant communication with the GAL—I sent her summaries of the case, talked with her on the phone, and provided her with any records she needed. The mother and her attorney, however, never responded to the GAL's persistent requests for information. The mother was completely aware of the importance of this report, but still didn't respond. As a result the GAL wrote a favorable report for the father.

When before the judge to discuss the issue of school placement and custody, I argued that the mother's unresponsiveness was due to the lack of prioritization of the child in her life. The judge was similarly dismayed by the mother's failure to contact the GAL and issued a temporary order granting the father primary physical custody of the child starting in early September when school begins. As such, this was a huge victory for our client because it disrupted the mother's argument that the child living with her was the status quo. While much of this success was due to a mixture of strong advocacy and fortuity, I am certain that had Equal Justice America not provided me with the funding the child would still be with an abusive mother.

Thank you.

Sincerely,

Benjamin Flick
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J.D. Candidate 2014