

ACS/Agency/ DSS Issues Regarding Suspended Judgments on TPRs

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- ◆ All parties can agree to one or Judge can order it over any or all parties objections as part of disposition if Judge concludes a suspended judgment is in child's best interests
- ◆ Have a good agency policy in place on what kinds of cases SJs are appropriate, make sure agency agrees with attorney that the case is appropriate for an SJ and what that will actually mean re casework

Should you agree to one before TPR? Issues to consider and discuss include:

- do you think parent should have a further chance to make it?
- are there proof problems in the TPR?
- how long will the TPR take to try?
- can you get the parent to waive any appeal of an SJ violation?
- would it be to any advantage to agree to a short period of SJ?
- can you get parent to stipulate that TPR happens unless they return case and prove compliance?
- how specific can you make the terms?
- can you limit/end any responsibility that the caseworker be required to do diligent type efforts?
- is on-going visitation going to be a problem for the child?
- how do the potential adoptive parents feel about this? will they hang in there?
- can you clarify that any violation of terms - even technical - can be brought back on violation?
- clarify the rights of both the parents, do notice if notice father!

What if you think Judge is going to order SJ during your TPR dispo but you oppose one?

- statute and caselaw say it is a best interests decision - tons of good cases to cite, be ready and armed!
- it's about what is best for child - not if parent "deserves" another chance or more time
- heap on the proof about good adoptive home - put them on the stand - get emotional
- if no adoptive home - get good adoption worker to spell out great efforts and positive vibes - MAKE SURE this is already happening - you have ASFA reg requirement that you engage in reasonable efforts to locate adoptive home as soon as TPR filed
- go "long view" - make sure court sees how long parent has already had to solve problems
- amount of time child away from parent and bonded, happy in other setting is key

Violations?

- bring it back right away, don't wait until end of SJ period
- amend if more violations before hearing
- insist caselaw be followed -be armed - tech violations are enough, violations of "spirit" are enough, hearsay is admissible, preponderance level is enough, no other hearing needed if court clearly makes a best interests decision as well