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DAVID W. PETERSON

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6 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
7 IN AND FOR THE COUNTY OF KITSAP
8 JUVENILE DEPARTMENT

9 In Re the Welfare of:

10 MILES TEJANO
11 LUIS WEST
12 PHEONIX WEST

NO. 13-7-00246-9
13-7-00247-7
13-7-00248-5

MEMORANDUM IN OPPOSITION
TO MOTION TO INTERVENE

13 I. INTRODUCTION

14 This matter comes before the Court on a Motion to Intervene in the case concerning the
15 above children, filed by WILLIAM SCHEIDLER. The Department of Social and Health Services,
16 by and through it's attorneys, ROBERT W. FERGUSON, Attorney General, and PETER KAY,
17 Assistant Attorney General, offers this Memorandum in Opposition to the Motion to Intervene.

18 II. ARGUMENT

19 A. Petitioner Is Not Entitled To Intervene As A Matter Of Right Under CR 24(A) Because He Has
20 No Statutorily Recognized Right Or Unrepresented Interest In The Matter.

21 The Petitioner, WILLIAM SCHEIDLER, seeks to intervene in this action for reasons
22 unclear to the Department of Social and Health Services. He does not appear to have any
23 connection to this case, other than being a member of the general public. Intervention of right is
24 controlled by CR 24(a), which provides for intervention upon timely application:

25 (1) when a statute confers an unconditional right to intervene; or

26 (2) when the applicant claims an interest relating to the property or transaction
which is the subject of the action and he is so situated that the disposition of the
action may as a practical matter impair or impede his ability to protect that interest,
unless the applicant's interest is adequately represented by existing parties.

1 There is currently no statute that confers a member of the general public an unconditional
2 right to intervene in a juvenile dependency proceeding. See In re the Dependency of J.H., 117
3 Wn.2d 460, 467, 815 P.2d 1380 (1991)(foster parents). He cites the Constitution, but under that
4 theory anyone could intervene in any case for any reason. Accordingly, the petitioner does not
5 have a right to intervene under CR24(a)(1).

6 Likewise, the petitioner cannot claim a right to intervene under CR24(a)(2) because
7 members of the general public have no legally recognized interest or claim in a dependency. The
8 interest which the intervenor seeks to protect must be one recognized by law. In re Coverdell, 39
9 Wn. App. 677, 887, 696 P.2d 1241 (1984)(hereafter Coverdell II). It is well established that the
10 child has an interest in a dependency action, and has a right to bring in a guardian ad litem.
11 Dependency of J.H., 117 Wn.2d at 447 (citing RCW 13.34.100). The child's parent or legal
12 guardian also has a recognized legal interest. See RCW 13.434.070 (notice to parties) and RCW
13 13.34.090 (parent(s) inherent rights in dependency actions). Even a child's relatives who are not
14 legally responsible for the child cannot claim an interest in the dependency proceeding. See In re
15 Schulz, 17 Wn. App. 134, 144, 561 P.2d 1122 (1977) (finding that grandparents cannot dispute a
16 finding of dependency under the "no capable parent" element). Therefore, an intervention of right
17 is clearly inapplicable to this proceeding.

18 B. Permissive Intervention Under CR 24(B) Is Inappropriate.

19 Under CR 24(b), permissive intervention is permitted upon timely application:

20 (1) when a statute confers a conditional right to intervene; or

21 (2) when an applicant's claim or defense and the main action have a question of law
22 or fact in common. When a party to an action relies for ground of claim or defense
23 upon any statute or executive order administered by a federal or state governmental
24 officer or agency or upon any regulation, order, requirements, or agreement issued
25 or made pursuant to the statute or executive order, the officer or agency upon timely
26 application may be permitted to intervene in the action. In exercising its discretion
the court shall consider whether the intervention will unduly delay or prejudice the
adjudication of the rights of the original parties.

Again, no statute exists which grants a member of the general public any right to intervene
in a dependency petition, so section (1) is inapplicable.

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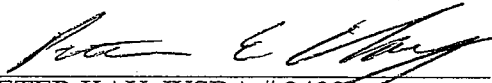
Section (2) of the statute is also incapable. The petitioner appears to want to intervene in this case to raise several "grievances". It is unclear what his claim or defense to the actual dependency matters is, in this case. He is not a party to the case and has not been involved in the case in any manner, prior to observing part of the trial as a member of the general public. Thus, section (2) does not apply either to this motion.

V. CONCLUSION

For the foregoing reasons, the Department of Social and Health Services respectfully requests that this Court deny the Petitioner's Motion to Intervene.

DATED this 2 day of July, 2014.

ROBERT W. FERGUSON
Attorney General


PETER KAY, WSBA # 24331
Assistant Attorney General