

## DISTRICT OF COLUMBIA COURT OF APPEALS

### In re A.I.; I.I., Appellant

In re A.I. · No. 17-FS-1090 · Decided August 1, 2019

#### SUMMARY

The District of Columbia Court of Appeals affirmed the trial court's change of a child's permanency goal from reunification with the birth mother to adoption. The court held that the government established by a preponderance of the evidence that it provided a reasonable reunification plan, made reasonable efforts to address the conditions leading to neglect, and that the mother failed to make adequate progress under the plan. The opinion was amended on August 1, 2019, to reflect changes to page two and footnote four.

#### CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                    |
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| COURT                 | District of Columbia Court of Appeals                                                                                                                                                                                                                                                                                                              |
| WRITING FOR THE COURT | Blackburne-Rigsby, Chief Judge; Easterly, Associate Judge; Washington, Senior Judge                                                                                                                                                                                                                                                                |
| JURISDICTION          | District of Columbia                                                                                                                                                                                                                                                                                                                               |
| DECIDED               | August 1, 2019                                                                                                                                                                                                                                                                                                                                     |
| DOCKET                | 17-FS-1090                                                                                                                                                                                                                                                                                                                                         |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                           |
| PROCEDURAL POSTURE    | Interlocutory appeal from the Superior Court's decision changing the permanency goal for the minor child A.I. from reunification with the birth mother to adoption.                                                                                                                                                                                |
| STANDARD OF REVIEW    | The court reviews a permanency-goal change for abuse of discretion, reviews legal conclusions de novo, and defers to factual findings unless clearly erroneous. On appeal from the associate judge's order, the court reviews the findings and conclusions of the magistrate judge as fact finder on which the associate judge's ruling was based. |
| PRECEDENTIAL VALUE    | published                                                                                                                                                                                                                                                                                                                                          |
| PARTIES               | I.I. v. District of Columbia                                                                                                                                                                                                                                                                                                                       |

#### TOPICS

family law procedure

adoption

parental rights

appellate procedure

standard of review

## PRACTICE AREAS

Family law

Child welfare

Appellate practice

## QUESTIONS PRESENTED

1. Whether the trial court abused its discretion in finding that the government provided a reasonable reunification plan.
2. Whether CFSA made reasonable efforts to assist I.I. in addressing the conditions that led to A.I.'s neglect and achieving reunification.
3. Whether I.I. made adequate progress toward the reunification goals.
4. Whether the trial court properly considered the circumstances surrounding A.I.'s removal and evidence from the earlier neglect proceedings in deciding the permanency-goal change.

## HOLDINGS

1. A reunification case plan is not defective merely because a parent refuses to participate in case planning or sign the plan, where the agency provided meaningful opportunities to participate and the plan identified the barriers to reunification, established specific goals, and provided appropriate service referrals.
2. To satisfy the reasonable-efforts requirement, CFSA must identify the barriers to reunification, prepare a case plan recommending services tailored to the child and family, refer the parent to appropriate service providers, and actively encourage, facilitate, and support the parent's access to and use of those services. Efforts are assessed by examining the agency's conduct, not solely the parent's compliance.
3. A parent has not made adequate progress toward reunification when the parent fails to complete the central treatment and visitation requirements of the reunification plan and does not make progress sufficient to safely and effectively meet the child's needs.
4. When the government proves by a preponderance of the evidence that it provided a reasonable reunification plan, made reasonable efforts to assist reunification, and the parent failed to make adequate progress toward the plan, a change in permanency goal from reunification to adoption is presumptively consistent with the child's best interests.
5. In deciding whether to change a permanency goal, the trial court may consider the circumstances surrounding the child's removal, including relevant evidence from the earlier neglect proceedings.

## KEY QUOTATIONS

*“Under the DC ASFA, “reasonable efforts” may vary from case to case. However, in each case, “reasonable efforts” requires the District to identify the barriers to reunification and prepare a case plan by recommending appropriate services designed to address the needs of each child and family.” (19-20)*

*““Reasonable efforts” is determined by an examination of the agency’s efforts, not the parent’s compliance.” (20)*

*“No social worker can force a parent in a neglect matter to engage in treatment; all a social worker can do is ensure that the parent has access to treatment.” (29)*

## FACTUAL BACKGROUND

In July 2015, I.I. was involuntarily committed because of symptoms and behavior resulting from untreated mental illness, and her then-five-year-old son A.I. was placed in CFSA custody because no caregiver was available. A.I. was adjudicated neglected, with reunification conditioned on I.I.'s obtaining mental-health treatment and consistently visiting the child. I.I. attended only a few psychiatric appointments, refused or failed to continue treatment, denied having a mental illness, and had prolonged periods of missed visitation and noncommunication with CFSA. After an evidentiary hearing, the trial court found that CFSA provided a reasonable reunification plan, made reasonable efforts, and that I.I. failed to make adequate progress toward reunification.

## PROCEDURAL HISTORY

A.I. was removed from I.I.'s care after I.I. was involuntarily committed and lacked an available caregiver. The child was adjudicated neglected, and the trial court initially established reunification as the permanency goal, conditioned in substantial part on I.I.'s participation in mental-health treatment and visitation. After an initial goal change to adoption, the magistrate judge held a retroactive evidentiary hearing pursuant to *In re Ta.L.* and reaffirmed the goal change. An associate judge affirmed the magistrate judge's decision, and I.I. took an interlocutory appeal.

## DISPOSITION

affirmed

## CASES CITED

- *In re Ta.L.*, 149 A.3d 1060 (D.C. 2016) (en banc)
- *In re K.C.*, 200 A.3d 1216 (D.C. 2019)
- *In re J.M.*, 193 A.3d 773 (D.C. 2018)
- *In re H.C.*, 187 A.3d 1254, 1264 (D.C. 2018)
- *In re J.O.*, 176 A.3d 144, 153-54 (D.C. 2018)
- *Jenkins v. United States*, 80 A.3d 978, 991 (D.C. 2013)
- *In re K.C.*, 151 Cal. Rptr. 3d 161, 166 (Cal. Ct. App. 2012)
- *Tracy J. v. Superior Court*, 136 Cal. Rptr. 3d 505, 513 (Cal. Ct. App. 2012)
- *Washington v. Harper*, 494 U.S. 210, 228 (1990)
- *In re A.C.*, 573 A.2d 1235, 1247 (D.C. 1990)
- *In re P.D.J.K.*, 182 A.3d 1234, 1238 (D.C. 2018)
- *In re M.V.H.*, 143 A.3d 94, 102 (D.C. 2016)

