FRIDAY, NOVEMBER 10, 2006

Events

November 18 – ADOPTION SATURDAY!!  Polk County Courthouse – Last year almost 1,000 people attended and 42 adoptions were finalized on that one day.

November 18 – RUSTY JOHNSON’S AMERICAN DREAMS CONCERT – 7:00 P.M., Douwstra Auditorium, Central College, Pella, Iowa. All proceeds will benefit the Iowa Friends of Foster Children Foundation. For tickets, contact: Iowa Foster and Adoptive Parents Association at (800) 277-8145, Ext. 165 or at www.ifapa.org

Child News

The Gay Adoption Issue, Again:  According to an article in U.S.A. Today, a Missouri State University graduate has sued the school in federal court, claiming she was retaliated against because she refused to support gay adoption as part of a class project. In the lawsuit, she claims that the retaliation against her Christian beliefs violated her First Amendment right to free speech.

The plaintiff alleges that she was accused of violating the school’s Standards of Essential Functioning in Social Work Education, after a professor assigned a project that required the entire class to write and each sign a letter to the Missouri Legislature in support of gay adoption. The student alleges that her Christian beliefs required her to refuse to sign the letter.

In the federal complaint, the student (Brooker) alleges that she was called before a college ethics committee and questioned for two hours by faculty members. She claims she was asked questions such as “Do you think gays and lesbians are sinners?” and “Do you think I am a sinner?” She said she was also asked if she could help gay and lesbian people in social work situations.
School officials have responded that Brooker was called before the ethics committee because she complained about the professor to her adviser and challenged a grade she had received in another class with the same professor. The professor involved allegedly said Brooker was often late to class and didn't participate in class discussions. In her complaint, the plaintiff also alleges that Brooker was told by faculty that she would have to "lessen the gap" between her personal beliefs and professional obligations to the national ethics code.

Brooker, who graduated from the program, is seeking to have the grievance against her and the contract removed from her record and unspecified monetary damages and fees.

**A New Approach to Foster Care in Portland, Oregon:** According to an article in The Oregonian, a private nonprofit has received permission to proceed to build a community for foster children and their adoptive families on an old school site. The City Council voted 3-2 to give a nonprofit known as Generations of Hope rent-free use of the former campus. Generations of Hope has revealed plans to build eight houses for adopted children and their new families and 32 apartments for senior citizens who agree to volunteer as "foster grandparents." The community will be named and modeled after Hope Meadows, a similar "intergenerational village" in central Illinois. The adoptive families won't pay rent. Seniors will earn a subsidy for their volunteer work. The only cost to city taxpayers is the donation of the land.

**Representation of Juveniles in Delinquency Hearings:** A lengthy report has been co-authored by Patricia Puritz of the National Juvenile Public Defender Center and Cathryn Crawford of the children and Family Justice Center at the Northwestern University School of Law assessing the access to counsel and quality of representation in delinquency proceeding in Florida. The report made a number of specific findings in the areas of: (1) Excessive Waiver of Counsel; (2) Untimely Appointment of Counsel; (3) Lack of Zealous Advocacy; (4) Excessive Guilty Pleas; (5) Use of Juvenile Court as a Training Ground for Defenders and Judges; and (6) Inadequate Resources and Excessive Caseloads. While the full report is very lengthy (over 100 pages long) several of the conclusions in the “Executive Summary” are of interest:

“Youth in Florida’s courts, even very young children, were observed routinely waiving the constitutional right to counsel. This often occurs with a wink and a nod – or even encouragement – from judges. Judges were sometimes observed implying that waiving counsel and making an admission was a way to resolve the case quickly, get out of the courtroom, and not have to set another date so the child’s parent or guardian would not need to miss work and return to court again. Other players in the delinquency system would echo this approach. All this was done without counsel being present or any meaningful discussion of the potential long-term disadvantages of waiving counsel taking place while the advantages were dangled in front of the children like candy.”

and
“Although observers saw many instances of juvenile defenders providing excellent and innovative representation of their young clients, this level of practice was not the norm in most counties. In general, representation fell far short of professional standards and national guidelines. . . Preparation for Adjudication hearings was weak, with minimal investigation. . . Detained youth complained that their attorneys did not visit them or were unreachable, and for those not detained, defenders seemed to believe that it was the client’s duty to initiate contact.”

**Minnesota ICWA Case:** *In the Matter of the Welfare of the Child of T.T.B. and G.W., Parents, ____ N.W.2d ____ (Minn. 2006) – Opinion filed October 19, 2006:* The Minnesota Supreme Court affirmed the action of a trial court which denied transfer of a juvenile proceeding to a tribal court “for good cause” as allowed by the federal Indian Child Welfare Act and the Minnesota act (Minnesota Indian Family Preservation Act). The Minnesota Court approved application of the BIA guidelines that allow the “good cause” requirement to be met solely because of the advanced stage of the proceedings when the petition to transfer was received.

**NOTE:** The same result would NOT be appropriate under the Iowa Indian Child Welfare Act. The Iowa Act statutorily limits good cause for refusal to transfer to four reasons: (1) the tribal court declines the transfer; (2) a lack of subject matter jurisdiction by the tribal court under tribal or federal law; (3) circumstances exist where the necessary evidence cannot be presented in tribal court without imposing undue hardship either to the parties or the witnesses and the tribal court cannot mitigate the hardship by any other means, such as hearing testimony by remote communication; and (4) an objection by a parent is entered. Therefore, the Iowa Act specifically excludes from consideration, on the issue of good cause for denial of transfer of jurisdiction, the advanced stage of the proceedings when the transfer petition was filed and the objection of a child older than twelve years of age.

The dissent in the Minnesota case strongly objected to the majority decision to apply the BIA guidelines. In a footnote to the dissent, Justice Page stated: “In addition, I question the wisdom of blind allegiance to guidelines created in 1979 by the Bureau of Indian Affairs—an agency that bears much of the responsibility for the offensive child welfare practices targeted by the ICWA.” Likewise, the dissent argued that application of this exception can ultimately lead to an undermining of the underlining purpose of ICWA:

“The court relies on authority suggesting that most state court systems and child welfare agencies seem to be making broad-based efforts to fulfill the mandates of the ICWA. [Citations omitted] However, the court cites no examples of such efforts in
Minnesota. Moreover, in the end, the relevant question is not whether states are making broad-based efforts to comply with the ICWA, but rather the question that needs to be asked is whether the states’ efforts are effective. It is not clear that Minnesota’s efforts have been effective. In fact, a report from this court suggests not only that Native-American children continue to be disproportionately placed out of home, but also that the number of such out-of-home placements is increasing. [Citations omitted] Because the goals of the ICWA appear to be unfulfilled and because, as the court notes, the good-cause exception for the transfer of cases to tribal courts may operate as a mechanism for easy circumvention of the ICWA, I would interpret the good-cause exception narrowly and hold it to be inapplicable to the circumstances of the present case. Irrespective of whether the good-cause exception was invoked in this case for the purpose of undermining the policy underlying the ICWA, by today’s decision the ICWA is undermined nonetheless, and the goals of the ICWA—yet to be achieved—are placed further out of reach by the precedent this case sets.”

The following is a portion of a recent report from CESAR (The Center for Substance Abuse Research):

An evaluation of the National Youth Anti-Drug Media Campaign provides credible evidence that the campaign was not effective in reducing youth drug use, according to a report by the U.S. Government Accounting Agency (GAO). Between 1998 and 2004 Congress appropriated more than $1.2 billion to the Office of National Drug Control Policy (ONDCP) for the National Youth Anti-Drug Media Campaign, a project that aimed to prevent and reduce youth drug use (primarily marijuana and inhalants). In 2005, Westat, Inc., completed an ONDCP-funded evaluation of the campaign. At the mandate of the Senate Appropriations Committee, a team of GAO social scientists reviewed and assessed Westat's evaluation, applying generally accepted social science research standards. Following are some of the conclusions from the GAO report:

- There was no evidence that exposure to the campaign affected initiation or cessation of marijuana use, either during the entire period of the campaign or during the period from 2002 to 2004 when the campaign was redirected and focused on marijuana use.
The campaign generally had no effect on the anti-drug attitudes and beliefs of youth who did not use marijuana. However, greater exposure to the anti-drug ads was associated with increases in the belief that their peers used marijuana regularly.

“To do anything in this world worth doing, we must not stand back shivering and thinking of the cold and danger, but jump in, and scramble through as well as we can.” – Sidney Smith