

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

In the Matter of the Welfare of the Children of:

Tasha Tennin, Parent.

ORDER FOR DISMISSALCourt File Number:
27-JV-18-653 (CHIPS)

Children: Child 2, see CHIPS Confidential Information Form 11.4
Child 3, see CHIPS Confidential Information Form 11.4
Child 4, see CHIPS Confidential Information Form 11.4
Child 5, see CHIPS Confidential Information Form 11.4
Child 6, see CHIPS Confidential Information Form 11.4

The above-entitled matter came on for an Emergency Protective Care hearing before the Honorable Peter Cahill, Judge of District Court, Juvenile Court Division on February 6, 2018. CMR recorded the proceedings.

APPEARANCES

Theresa Price, Assistant Hennepin County Attorney, appeared for and on behalf of the Hennepin County Human Services and Public Health Department ("Department") which was represented by Ivy Villani (Investigating Social Worker) and Chamaera Sowell, Social Worker, who were present.

Polly Krause, Assistant Hennepin County Public Defender, appeared for and on behalf of Tasha Tennin, Mother, who was present.

Mary Jo Wiatrak, Assistant Hennepin County Public Defender, appeared for and on behalf of children 2 and 3, who were present.

Killie Dillner, Guardian ad Litem, was present.

Tedrick Davis, father, was present.

Upon the evidence adduced, the argument of counsel, and all the files, records, and proceedings herein, the Court makes the following:

FINDINGS OF FACT

1. The Department filed an Ex Parte Motion for Emergency Protective Care based on the CHIPS petition pursuant to Minn. R. Juv. Pr. 28.02.
2. The parties appeared for hearing on a CHIPS petition filed on February 6, 2018.

3. Counsel for the Department requested the court find based on the CHIPS petition that there is a *prima facie* showing that a juvenile protection matter exists, that children 2, 3, 4, 5, and 6 are the subject of that petition, and to continue their out-of-home placement.
4. Counsel for Ms. Tennin moved the court for dismissal.
5. Counsel for the children joined in the motion for dismissal.
6. The Guardian ad Litem requested that the case remain open but stated no concerns for the children if they returned to their mother's care under the terms of protective supervision.
7. The Court does not find that the allegations in the petition support a *prima facie* showing that a juvenile protection matter exists, and therefore, finds that this case should be dismissed.

IT IS HEREBY ORDERED

1. The Petition for Children in Need of Protection or Services filed February 6, 2018 is hereby dismissed.
2. The attached memorandum is incorporated herein by reference.

BY THE COURT



Digitally signed by Cahill, Peter
Date: 2018.02.07 08:02:23
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Peter A. Cahill
Judge of District Court
Juvenile Court Division

Memorandum

The petition details the tragic death of a child at his¹ home from what appears to be, even viewing all the facts in the light most favorable to the Petitioner, a sudden unexpected death from influenza or some other illness.

On the day before his death, the deceased child (“child 4” in the petition) was not in apparent extreme medical distress. He attended school where staff said he appeared tired because of medication he was taking. While the school principal noted that the child and some of the child’s siblings appeared sick that week, there is no indication that the children appeared sick enough to be sent home or seek medical intervention. The principal was aware that sickness was going through the family home, a fact verified by respondent mother. The school acknowledged that a “number” of other students have also had the flu lately.²

After school, the child was well enough to play outside with friends. When the child came inside, a sibling noticed he was having a hard time breathing. A different sibling stated that the child had a cold and was stuffed up “like everyone else.” Around 5:30 p.m., the child was sleeping in a bedroom when the mother asked if he wanted something to eat, the child stated “no” and that his head hurt. The mother left peanut butter crackers and water for the child who laid down. The mother checked about two hours later and had the child use the restroom. The mother then checked again at 9 p.m. and found the child had turned over in bed. The mother then checked on all the other children and then went to bed herself.

The following morning, the mother called 911 to report that the child was unconscious. First responders found the child on the living room floor cold to the touch and not breathing.

¹ The masculine pronouns are used for clarity in writing, but child 4 was not necessarily male.

² The court takes judicial notice that an influenza pandemic is currently sweeping the country, causing a number of children to die.

According to the petition, the child had “no visible signs of trauma and had no known medical conditions.” The child was pronounced dead at the scene.

An autopsy has been conducted, but no results are available. One finding that was made was that the deceased had old scars on his back and genitals, but no recent trauma. As noted in the petition, there was a child protection case filed in 2006 because Mr. Larry Tennin allegedly hit a different child with a belt.

Because this death is still under investigation, law enforcement and the petitioner might uncover new facts which show the death was not due merely to natural causes, but due in part to homicidal violence. If so, then petitioner can, and should, file a new petition immediately with the new evidence and seek an order for the other children to be placed out of the home.

PAC

State of Minnesota
Hennepin CountyDistrict Court
Fourth Judicial DistrictCourt File Number: **27-JV-18-653**

Group ID: 0226121

FILE COPY

Notice of Filing of Order

In the Matter of the Welfare of the Child(ren) of: Tasha Tennin, Parent

PLEASE TAKE NOTICE THAT on February 07, 2018 the attached Order was filed in the above case.

1. **Effective Date.** The Order shall remain in full force and effect until the first occurrence of one of the following: issuance of an inconsistent order; the order ends pursuant to the terms of the order; or jurisdiction of the juvenile court is terminated. Unless otherwise ordered, an order stated on the record is effective immediately.
2. **Clerical Mistakes (Rule 46.01).** Clerical mistakes in an order arising from oversight or omission may be corrected by the trial court at anytime, and, during the pendency of an appeal, may be corrected with permission of the appellate court.
3. **Mistakes, Inadvertence, Excusable Neglect, Newly Discovered Evidence, Fraud (Rule 46.02).** Upon motion made within 90 days of the date the court administrator served this Notice of Filing of Order, the court may relieve a party or the party's legal representative from a final order or proceeding, including a default order, and may order a new trial or grant such other relief as may be just for any of the following reasons:
 - Mistake, inadvertence, surprise, or excusable neglect;
 - Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial;
 - Fraud (whether denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party;
 - The judgment is void; or
 - Any other reason justifying relief from the operation of the order
4. **Petition to Invalidate Under ICWA (Rule 46.03).** Any Indian child who is the subject of any action for foster care placement or termination of parental rights under state law, any parent or Indian custodian from whose custody such child was removed, or the Indian child's tribe may seek to invalidate the action upon a showing that such action violates the Indian Child Welfare Act. A motion or petition to invalidate shall be in writing and shall be filed and served pursuant to Rule 15.02.
5. **Appeal (Rule 47).** An appeal may be taken by an aggrieved person from a final order of juvenile court affecting a substantial right of an aggrieved person, including, but not limited to, an order adjudicating a child to be in need of protection or services or neglected and in foster care, or an order terminating parental rights or permanently placing a child out of the care of the parent. **Any appeal from a final order shall be taken within twenty (20) days of the date the Court Administrator served this Notice of Filing of Order.** In the event of the filing and service of a timely and proper post-trial motion under Rule 45, or motion for relief under Rule 46 if the motion is filed within the time specified in Rule 45.01, subd. 1, the provisions of Minnesota Rules of Civil Appellate Procedure Rule 104.01, subd. 2 and 3, apply, except that the time for appeal runs for all parties from the service of notice by the court administrator of the filing of the order disposing of the last post-trial motion. The procedures for filing and serving an appeal are set forth in Juvenile Protection Rule 47.
6. **Application for Stay of Trial Court Order (Rule 47.03).** The service and filing of a Notice of Appeal does not stay the order of the trial court. If the trial court denies an application for stay pending appeal, upon motion a stay may be granted by the court of appeals.

Dated: February 7, 2018

Sarah Lindahl-Pfeiffer
Court Administrator
Hennepin County District Court
590 Park Avenue
Minneapolis Minnesota 55415
612-348-4822