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| DISTRICT COURT, ARAPAHOE COUNTY, COLORADO  COURT USE ONLY  7325 S. Potomac St., Centennial, CO 80112  303-649-6355  The People of the State of Colorado, In the Interest Of:  DUDLEY DURSLEY  Child,  And Concerning,  VERNON DURSLEY, PETUNIA EVANS  Respondents,  Attorney:  Hermione J. Granger, Granger Law Offices  1457 N. 120th Ave, Northglenn, CO 80221  Phone: (303) 555-1234 E-mail: granger@grangerlaw.com  Fax: (303) 555-4567 Atty. Reg #: 45678 | Case Number: 2018JV287  Div.:R Ctrm: |
| **OBJECTION TO TREATMENT PLAN** | |

COMES NOW, Respondent Father, Vernon Dursley, by and through his court appointed attorney, Hermione Granger, and hereby submits his Objection to Treatment Plan, and as grounds states:

**Certificate of Compliance with Colo. R. Civ. P. 121(c)(1-15)(8)**

The undersigned conferred with Assistant County Attorney Maleficent Blackwell, who opposes this motion, guardian *ad litem*, Drizella Termaine who opposes this motion, and counsel for Respondent mother, Gaston Marsh who agrees with this motion.

**Background**

1. The Arapahoe County Department of Human Services (“Department”) filed a proposed treatment plan on July 1, 2018. Respondent father’s proposed treatment plan requires him to participate in family engagement meetings, called Listening to Needs of Kids or LINKS meetings, to comply with his treatment plan. *See* July 8, 2018 Dispositional Report, Objective 1, Action Step 3, p.7.
2. Arapahoe County does not allow respondent parents counsel to attend LINKS meetings with parents. LINKS meeting includes participants including parents, special respondents, intervenors, a facilitator, caseworkers, treatment providers, visitation supervisors, therapists, probation officers, and the guardian *ad litem*. *See* Arapahoe County, Listening to the Needs of Kids, LINKS, <http://www.co.arapahoe.co.us/1924/LINKS> (Last accessed July 8, 2018). LINKS meetings are held every ninety days when a child is placed out of the home as Dudley is. *Id*.
3. LINKS meetings provide updates about progress, create safety plans, make decisions regarding placement, and plan for services. *Id.* Mr. Dursley’s treatment requires him to actively participate in the meeting, and discuss treatment progress and barriers, and will typically be asked to agree to services and placement changes.
4. The Department is required to provide services to families to encourage reunification, and the Department is required to involve the parents in the process of determining what services are appropriate. C.C.R. 2509-4 § 7.000 at C, F. These principles are reflected throughout Volume 7. Section 2509-4:7.300 requires departments to adopt “family engagement practices”, which means “joining *with* [emphasis added] the family/kin to establish common goals of safety, well-being, and permanency throughout the involvement and is inclusive of other systems.” This provision further states that “[i]nformation sharing is open, honest, and clear.” *Id.* at G. Parents who cannot participate in order to obtain advice of counsel are denied these services.

**Argument**

1. The purpose of the Colorado Children’s Code is “To preserve and strengthen family ties whenever possible.” § 19-1-102(1)(b), C.R.S. LINKS meeting do help serve this purpose, but a parent’s liberty interest in their child must be protected. The Department is required to provide services to parents to avoid unnecessary foster care placement and facilitate the speedy reunification of parents with their children in out-of-home placement. § 19-3-208, C.R.S. The LINKS meetings are one such service, and it helps identify additional services to make reasonable efforts to reunify parents and children. A failure to allow counsel to participate with Mr. Dursley at LINKS meetings does not promote reunification and denies Mr. Dursley due process.
2. “The liberty interest. . . of parents in the care, custody, and control of their children - is perhaps the oldest of the fundamental liberty interests.” *Troxel v. Granville*, 530 U.S. 57, 65 (2000). Mr. Dursley’s fundamental right was impacted when this court ordered his son into the temporary custody of the Adams County Department of Human Services, and authorized this Petition to be filed, potentially leading to termination of parental rights.
3. Just because Dudley is in foster care, Mr. Dursley and Ms. Evans’ fundamental liberty interest “in the care, custody, and management of [Dudley] does not evaporate simply because they have not been model parents or have lost temporary custody of their child to the State.” *Santosky v. Kramer*, 455 U.S. 745, 753 (1982). Mr. Dursley’s liberty interest is intact, and warrants due process, equal protection, and fundamentally fair procedures. In fact, “[w]hen the State moves to destroy weakened familial bonds, it must provide the parents with fundamentally fair procedures.” *Santosky v. Kramer*, 455 U.S. at 753-754.
4. Parents must have access to counsel to be provided with due process. Parents have a right to be represented by counsel at every stage of a dependency and neglect proceeding. § 19-3-202(1), C.R.S. *See also §* 19-1-105, C.R.S. Parents are denied the right to counsel if they are required to participate in LINKS meetings without counsel.
5. Case related decisions are made at these meetings, and parents are required to provide input without the advice of counsel, thus denying them the right to counsel. It is not sufficient to simply tell parents to consult with counsel after a meeting. “A fundamental requirement of due process is ‘the opportunity to be heard.’” *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965). Parents who have to choose between participating in a meeting about their children or having access to counsel are denied an opportunity to be heard. Mr. Dursley is denied the opportunity to be heard at the LINKS meetings as these decisions are made because he does not have the chance to consult with counsel in order to determine how these decisions affect his ability to parent Dudley.  For example, when caseworker Hill asked Mr. Dursley why he could not attend sex offender treatment, he did not have the ability to know about the court of appeals’ decision in *People in the Interest of L.M.*, 2018 COA 57, nor did he have the opportunity to consult with legal counsel about it and whether it would help him reunify with Dudley.
6. In a dependency and neglect case where termination of parental rights is a possibility, the Department not only has unlimited resources to prosecute its case, but the Department “even has the power to shape the historical events that form the basis for termination.” *Santosky* at 763. The interactions and decisions made at LINKS meetings often form the basis for facts that are used in a termination proceeding. Exclusion of counsel at LINKS meetings denies Mr. Dursley due process throughout the proceeding.
7. Mr. Dursley’s attorney is an essential support, and therefore an essential member of the family engagement team. The Department is required to hold family engagement meetings and seek input from parents about services. C.C.R. 2509-4 § 7.000 at C, F; § 7.300.1. If counsel is excluded from the meeting, parents are denied input, and their opportunity to be heard. The Colorado Court of Appeals has repeatedly found respondent parent counsel stand in the place of parents during dependency and neglect proceedings. *See* *e.g.* *People In Interest of K.J.B*., 342 P.3d 597, 600 (Colo. App. 2014). Mr. Dursley has the right to be heard at family engagement meetings through counsel.
8. Attorneys are prohibited from communicating with represented parties without consent from counsel from the represented party, or a court order. RPC 4.2. Undersigned counsel has not authorized Ms. Blackwell or Ms. Tremaine to communicate with Mr. Dursley without her presence. Ms. Tremaine therefore cannot participate in a LINKS meeting without the undersigned’s presence. The effectiveness of the LINKS meeting is limited if all parties are unable to participate.
9. It is in Dudley’s best interest that counsel for Mr. Dursley be able to participate in LINKS meetings, so that all parties have the ability to participate. It is in Dudley’s best interest fyes I haor there to be open and honest communication, and for his father to have input. Due process mandates Mr. Dursley be able to participate in LINKS meetings with counsel.

WHEREFORE Respondent father respectfully requests that this Court modify objective one, action step three of his treatment plan to allow counsel to attend LINKS meetings.

Respectfully submitted this 8th day of July, 2018.

Hermione Granger, #45678

Attorney for Vernon Dursley

Certificate of Service

I hereby certify that on May 8, 2017, a true and correct copy of the foregoing was served by electronic mail or by placing a true and correct copy in the United States Mail, postage prepaid and addressed to:

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Hermione Granger