

**A.C.**

**IN RE: : APPELLATE COURT**

**AZEREON Y.**

**ASIREONA : STATE OF CONNECTICUT**

**: AUGUST 21, 2012**

**APPLICATION OF THE OFFICE OF THE CHIEF PUBLIC DEFENDER, CENTER FOR CHILDREN'S ADVOCACY AND NEW HAVEN LEGAL ASSISTANCE ASSOCIATION FOR PERMISSION TO APPEAR AS AMICUS CURIAE IN SUPPORT OF THE APPELLANT**

The applicants, Connecticut Office of the Chief Public Defender, the Center for Children's Advocacy and the New Haven Legal Assistance Association, through the undersigned counsel, hereby requests permission, pursuant to Connecticut Practice Book Section 67-7, to appear in the case of In Re: Azereon Y., as amicus curiae in support of the appellant, respondent mother on the issue of whether Conn. Gen. Stat. 17a-112 is unconstitutional as applied to the respondent mother because it does not require that the court consider all less restrictive alternatives prior to ordering the termination of her parental rights.

**I. Brief History of the Case**

The Respondent Appellant in this case is the mother of Azereon Y and Asireona . Y She has a number of cognitive limitations and mental health issues. The respondent has a history of trauma, including being raped when she was 11 years old. She would maintain a relationship with that man, Frederick R, in spite of ongoing abuse and violence He eventually would father one of the children. She has a history of

hospitalizations including as admission to Riverview Hospital for Children in connection with a criminal case when she was 16.

DCF became involved because of reports that the respondent appellant's limitations made her unable to keep her children safe. DCF obtained temporary custody through a 96 hour hold on November 10, 2010. On May 10, 2011, the children were adjudicated neglected and committed to the care and custody of the commissioner by the Superior Court for Juvenile Matters in Hartford (Dyer, J.). The children were eventually placed with Linda Y, respondent appellant's aunt.

On September 20, 2011, the commissioner filed a petition to terminate the Respondent's parental rights for her two children, alleging that she had failed to rehabilitate herself after an adjudication of neglect. The respondent participated in a number of services and programs and a psychological evaluation was done by Dr. Bruce F. All identified that she was unable to remember basic instructions on child care or administering medication to the children. Counseling and medication were attempted and the record shows that the respondent was cooperative to the best of her ability but that her cognitive limitations and other mental health issues made it difficult for her to benefit from the interventions. Dr. F. described her as functioning at the level of a "lively 13 year old". He did not feel that more medication or therapy would improve the respondent's abilities. Service providers and the evaluator all identified that the respondent appellant was a loving mother who was generally interested in the well being of her children and that the children responded positively to the respondent during visits and observed interactions.

A trial was held on April 30, 2012, and May 11, 2012. Judge Cofield rendered an oral decision terminating the respondent appellant's parental rights, finding by clear and convincing evidence that the Department of Children and Families had but that respondent had failed to rehabilitate herself, which was a statutory ground for terminating her parental rights. The Court also terminated the parental rights of John Doe, father of Azareon and Frederick R. father of Asireona. The court noted that the children needed a safe and stable environment and that Linda , the respondent's aunt had offered herself as an adoption resource.

An appeal was timely filed with the Appellate Court claiming General Statutes § 17a-112 is unconstitutional as applied to the Respondent. Because it does not require the court to consider all less restrictive means of maintaining the safety and stability of the subject children prior to ordering the termination of parental rights, C.G.S. 17a-112 violates the respondent's substantive due process rights under the federal and state constitutions.

## **II Qualifications of Amicus Curiae**

The Connecticut Office of Chief Public Defender (OCPD) is the state agency responsible for overseeing the provision of legal services to children and families involved in child welfare proceedings and to indigent juvenile defendants in delinquency prosecutions in Connecticut. OCPD is responsible for advocating for legislation and policy changes that impact upon and improve the practice of juvenile law. Although relatively new to the area of child welfare law, OCPD has a long history of zealous appellate advocacy on criminal and juvenile justice issues before the Connecticut Supreme Court.

The Center for Children's Advocacy, Inc. (The Center) is a non-profit organization affiliated with the University of Connecticut School of Law, dedicated to the enhancement of the legal rights of poor children. Its twin missions are to provide legal representation to children who fall through the cracks of the child welfare, education, health, and juvenile justice systems, and to improve the quality of legal representation for poor children. The Center has participated in numerous cases involving the rights of parents and children before the Connecticut Superior Court for Juvenile Matters, the Connecticut Appellate Court and the Connecticut Supreme Court, including *In re Jessica M.*, AC 32132 (argued September 22, 2010); *In re Jose B.*, AC 31879 (argued September 22, 2010) *In re Shanaira C.* 1 A.3d 5 (2010); *In re Matthew F.*, 297 Conn. 673, 4 A.3d 248 (2010), *In re Melody L.*, 290 Conn. 131, 962 A.2d 81 (2009); *In re Christina M.*, 280 Conn. 474, 908 A.2d 1073 (2006); *Sheff v. O'Neill*, 238 Conn. 1 (1996), *In re Valerie O.*, 223 Conn. 492 (1992). The Center represented all abused and neglected children under the care and custody of the Department of Children and Families in the federal court consent decree of *Juan F. v. Rowland*, Civil No. H87-673 (D. Conn. 1991). Through its Child Abuse Project, the Center has represented hundreds of children in child abuse and neglect cases and provides training and technical support to attorneys who represent both children and parents in these proceedings. Through contracts with the Connecticut Commission on Child Protection, the Center has provided comprehensive pre-service training and mentoring to attorneys new to the juvenile court.

New Haven Legal Assistance Association

### **III. Statement of Interest**

The applicants are in a position to provide the Court with insight on the application of less restrictive alternatives prior to a deprivation of rights in delinquency matters and how due process requires that the same analysis take place prior to the infringement of any protected right, in this case the right to parent one's children. The applicants have been at the forefront of the reform efforts in the juvenile justice system and can offer the court an analysis of how the systems compare and why the due process protections given to defendants in delinquency actions should mirror the protections accorded to parents in termination of parental rights cases. The applicants can also provide insight on how the newly adopted law on creating the status of permanent legal guardian shows a trend towards the creation of less restrictive alternatives. The Center for Children's Advocacy and New Haven Legal Assistance are recognized as the leading advocates for children and parents in the child welfare system and can provide the court with arguments on how requiring courts to consider less restrictive alternatives to termination of parental rights results in better outcomes for children and families.

### **IV. Legal Grounds**

The legal grounds for this application are found in Section 67-7 of the Connecticut Practice Book.

Respectfully Submitted  
The Office of the Chief Public Defender

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### **CERTIFICATION**

In accordance with Connecticut Practice Book Section 62-7, I hereby certify that I have served the original and fifteen(15) copies of this motion via hand delivery and electronic mail on this 24th day of August, 2012 to the Office of the Clerk, Appellate Court, 231 Capitol Avenue, Hartford, CT and by First Class Mail on the following counsel of record

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