Family Court Fiasco

by Peggy Farber
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It was a typical day at Queens Family Court on Parsons Boulevard in Jamaica on May 3. At 2:00 p.m. over one hundred people were waiting in the second floor reception area for their cases to be called by one of five judges holding court on that floor that day. Family Court is where all decisions regarding children in foster care are made. Many in the crowd, mostly parents seeking return of children, had been waiting since 9:00 a.m. In Family Court there are no official start times for proceedings.

Tanya Granston, 23, arrived at 9:00 despite her lawyer's prediction that her case would not get a hearing until afternoon. She'd been waiting eight months to get her two children, LaTanya, 5, and JaQuane, 2, out of foster care, and she could hardly stand the wait another moment. Charged with medical neglect for failing to take JaQuane to an emergency room the night she picked him up from the babysitter and found a burn on his buttocks, Ms. Granston had yet to have her day in court - had yet, that is, to testify that she had taken JaQuane to the pediatrician the morning after she picked him up.

Shortly after lunch, Ms. Granston's lawyer, Ade Fansanya, approached Ms. Granston and her mother (there to lend support), looking tense. "We have a problem," he began. "ACS's attorney is not here so there's going to be an adjournment." Ms. Granston burst into tears.

This made it the eighth time since July 29th, when Ms. Granston's children were taken into city custody, that her case had been adjourned. The list of reasons for delay ran the gamut. On July 30th, the case was adjourned to give the Administration for Children's Services (ACS) time to find a kinship home for the children. On August '0th, it was adjourned because ACS had not searched for a home. On September 30th, it was rescheduled because the judge was called away. Almost a year into the case and there had been just one short stretch of fact-finding, back on November '8th, '999.

As devastating as the May 3rd setback was for Tanya, it was hardly unusual, according to lawyers, social workers, and judges who work in New York City's family courts. A new study by Pubic Advocate Mark Green substantiates the magnitude of the failure of New York City Family Courts to deliver justice on time. (Go to http://www.nyc.gov/palist.cfm and click on Reports and Investigations.) According to the report:

- the system for handling child welfare cases is so backlogged that on average it takes 180 to 210 days for courts to complete hearings to determine whether, in fact, a child in foster care

has been neglected or abused;

- parents are regularly forced to return to court on subsequent days to be assigned lawyers because of a critical shortage of attorneys available to them;
- children in New York City average 48 months in foster care as a result of court delays - 15 months beyond the national average of 33 months.

Because of new timelines established by the 1997 federal Adoption and Safe Families Act (ASFA), court delays are now a serious threat to family reunification. ASFA mandates that agencies begin proceedings to terminate parental rights when a child has been in foster care for 15 of 22 months.

Mr. Fansanya tried soothing Ms. Granston as he explained what was likely to happen that afternoon, but in fact he was exasperated himself. "If this were any other case in any other place this case would be dismissed if the petitioner were not ready to proceed," he said.

As it turned out, the hearing in front of Judge Stephen Bogacz produced one positive result, even though it was adjourned almost as soon as it began, as predicted. Mr. Fansanya won permission for Ms. Granston to have unsupervised overnight visits with the children. First he had to convince Judge Bogacz to accept a mental health evaluation of Ms. Granston prepared by the children's private foster care agency in place of a City assessment. The City's assessment, though ordered by the court, was not yet ready. After a ten minute break to allow ACS officials to read the private agency's report, Judge Bogacz granted Ms. Granston the extended visits with her children.

A 1996 study by the state's Office of Court Administration (OCA) shows how common delays are in New York City child welfare proceedings. Of 590 abuse and neglect cases reviewed by OCA, 425, or 72%, were adjourned four or more times. In over half the cases, 307, there were six or more adjournments. With 40 to 60 cases on their calendars every day, judges find it difficult to reconvene cases quickly. Generally six to eight weeks are lost every time a case is adjourned. Ms. Granston was lucky. Her hearing wasn't a victory but it was a small step forward. Her hearing was then adjourned for another month.

Peggy J. Farber is freelance journalist specializing in children's issues. Her reporting on conditions of NYC children has appeared in City Limits Magazine as well as on National Public Radio.

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