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Case Study of Liberty Loss Through Government Overreach - Part 4

Texas Supreme delivers major smack-down to CPS for the illegal abduction of a 4-year-old child.

The latest good news is that the Texas Supreme Court on October 24, 2019 reunited the Pardo family by ruling that DFPS had not shown a "substantial risk of a continuing danger" to Drake if he returns home subject to the medical-oversight provisions contained in the temporary orders.

A final ruling on the legality of the Drake Pardo abduction is expected within the next few weeks.

This is Part 4, in what can only be characterized as an extreme miscarriage of justice by the Texas Department of Child Protective Services (CPS) which got an emergency court order in Kaufman County to remove a four year boy from his family. On June 20, 2019, the four-year-old was forcefully taken by CPS with the assistance of law enforcement. Then, on July 2nd, a Kaufman County judge upheld the order after a 6.5 hour hearing during which no testimony was presented which identified any wrongdoing by either parent.

The CPS document claims that CPS made reasonable efforts to prevent the need for Drake's removal. However, that is another blatantly false statement as no evidence was presented in either affidavit that any effort, much less a reasonable attempt, was made to resolve this case without removing the child from the home. The only effort made by CPS has been to seek immediate and permanent removal of the child.

CPS documents also stated: *There is an immediate danger to the physical health or safety of the child, or the child has been the victim of neglect or sexual abuse.*"

Is this something that CPS just inserts into every case to spice it up and help gain favor from the court? It appears that CPS policy is that when you know you cannot win on the merits of the case you fabricate "sizzle" to wrongly influence the court. Apparently, it worked. It makes one wonder if this case is an anomaly or standard practice for the agency.

To make matters worse, it appeared in the hearing that on almost every question that could be answered with a "yes" or "no", the caseworker was coached on her response by the CPS attorney. The caseworker would first look down and appeared to be shuffling through papers looking for the answer. Then she would look up and at the CPS attorney who would be nodding her head in either a "yes" or a "no" movement. The caseworker would then answer accordingly. Unfortunately, the defense attorney never questioned the behavior. It was quite disappointing, but not surprising, that the judge allowed it to continue.

Child's Ad Litem Attorney

It was quite obvious that the Ad Litem attorney, in the Pardo case, was a cheerleader for CPS. In this particular case, the ad litem has a private practice that focuses on adoption. Her line of questioning did not reflect much interest in the welfare or well-being of the child. After all, if the CPS succeeds in terminating parental rights, the child will be up for adoption.

This should be recognized as a conflict of interest that the State Bar of Texas should address. If they do not, the Legislature should.

Overall inconsistencies between witnesses and between affidavits and testimonies and differences between and within other court documents apparently were of no concern to the judge. The message being sent by this case is that CPS does not need any evidence of child abuse to legally abduct a child, CPS is immune from prosecution for lying in an affidavit, the courts will assume that a parent simply accused by CPS of child abuse is guilty, and the burden of proof of innocence is on the parent.



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Status Hearing

A new judge with a significantly different attitude and demeanor presided at the next status hearing. While she did not dismiss the case, she also did not roll over and grant CPS everything they requested. Other than not dismissing the case entirely, as should have been done, she was reasonable and fair in her rulings.

She deserves kudos for not accepting the agency's, unilaterally written, Family Plan in which CPS wanted outrageous admissions from the mother and the father. CPS wanted the mother to admit that she had mental problems and the father to agree that the mother's mental problems were serious. CPS also wanted both parents to admit to child abuse. This is a common trick CPS often attempts when they have no evidence. Had the Pardos accepted this plan, CPS would have had all they needed to permanently terminate their parental rights and the Ad Litem attorney could have been handed another lucrative adoption case. To her credit, the judge recognized the injustice of the CPS proposal and refused to make the Family Plan part of the order that day. Kudos number one for the judge.

The second outrageous CPS/Ad Litem attorney request was also rejected by the judge. CPS and the Ad Litem attorney wanted the judge to permanently prohibit me (Senator Bob Hall) from having anything further to do with this case. The gasp in the courtroom was quite loud and even the judge had a look of shock on her face. Again to her credit, the judge flatly, without any meaningful discussion, rejected their requests. Kudos number two for the judge.

It is past time for CPS harassment of the Pardos to end. The Pardos have now completed all of the court ordered requirements. Both parents passed their psychological evaluation which was conducted by the CPS controlled psychologists. The home visit has been accomplished.

There are just too many children that actually need protection to allow CPS to continue squandering resources based on the misrepresentations of a CPS case worker and the chain of supervisors that protected her.

I have stated before, in this next session, the legislature must do more than just throw money at this issue and hope that the systemic problems that continue to plague CPS will eventually dissolve. Instead, the legislature must demand a deeper evaluation of the CPS methodology and a complete restructuring of the organization. We must overhaul and restructure the very framework to intelligently address the priorities and burdens that caseworkers face on a daily bases. In addition, we are dutifully bound to guarantee that DFPS operates in line with lawful investigation practices. This includes an adherence to the 4th and 14th amendments, and the protections of constitutional rights and parental authority. We must address these issues, while also ensuring that our limited tax dollars are focused on situations of true abuse, not situations of legitimate parental decisions with which the personnel in DFPS happens to disagree.

The status quo at CPS is unacceptable. I fully support and believe it is time the Texas Legislature ensures the Children of Texas are properly protected.

