Liberty Counsel and Lou Pelletier Respond to Reunification Plan

Massachusetts Department of Health and Human Services Secretary John Polanowicz released a plan to reunify Justina with her family, but it has significant issues that must be addressed. Liberty Counsel believes that it would be ideal to get Justina to Connecticut, if these concerns are handled.

Pelletier Response to Polanowicz Plan

The Pelletier family is extremely disheartened to learn that the draft May 5, 2014, Polanowicz Plan for returning Justina was released to media prior to the Pelletiers' meeting with Secretary Polanowicz. The Pelletiers had hoped to continue negotiations in good faith in private, as had been indicated previously by DHS.

Liberty Counsel has reviewed the plan that was announced to the Pelletiers today by Secretary Polanowicz. While it is a good "baby step" in the right direction, Liberty Counsel and the Pelletier family still have several very significant concerns.

First, the statement in the Plan that "only the Juvenile Court has the authority to determine when and if custody should be returned" is inaccurate. DCF’s own regulations for case closure make it abundantly clear that it is within DCF's power to end this situation immediately. If DCF walked into court tomorrow morning, and informed the judge that they were no longer objecting to a return of Justina to her loving parents in Connecticut, this case would be closed within hours. Moreover, the DCF regulations explicitly state that DCF “does have the option to close cases by administrative decision without court action” even if their custody is based on a court order. The notion that this is all out of DCF's hands is demonstrably wrong.

Medical treatment: The Polanowicz Plan requirement that the Pelletiers "Follow through with the Tufts Medical Center Plan" is perhaps the most concerning, because the Pelletiers have no control over Justina's medical care; they have no say in it whatsoever. Moreover, they have consistently been denied any information about Justina's medical condition by DCF. All information about Justina's condition has come through Justina or some other source. It has never come directly through Justina's doctors, because DCF has forbidden them from speaking with the Pelletiers. DCF has even ignored Judge Johnston's order of Tufts medical supervision and direction.

Therefore, the Pelletiers must be assured of the following: 1) DCF itself will follow Tufts Medical Center guidance in all aspects, giving Tufts complete control over Justina's care in all areas, including scheduling of appointments, medical procedures, and other issues identified by Tufts Medical Center. 2) The Pelletiers be given accurate information and open lines of communication with Tufts Medical Center health providers, to determine what Tufts Medical Center (and Dr. Mark Korson) believes to be necessary for Justina's medical future.
Another medical treatment concern is that the Polanowicz Plan proposes that Justina be housed at the behavioral issues wing of the JRI Susan Wayne Center for Excellence, instead of a rehab therapy center such as Gaylord Rehabilitation Center, or the Hospital for Special Care, both of which are staffed with medical professionals and are also convenient for family visitation. Justina does not need more "behavioral modification" - she needs medical treatment and physical therapy, to say nothing of her educational and social needs.

Educational needs: In regard to Justina's education, Glenn McGrath, Director of Pupil Services for the West Hartford Public Schools, would like for Justina to be able to receive continued education assessments, and ideally, return to class immediately. While the family would like Justina returned directly to their custody, a suitable private foster care provider within the greater West Hartford area would enable Justina's educational and social needs provided by the West Hartford Public Schools to resume immediately. While the Susan Wayne Center for Excellence may be a good institution appropriate to Justina's needs in other aspects, its location is too far away from the West Hartford Public Schools to address Justina's educational and school socialization needs.

Visitation with Family: The Polanowicz Plan has not addressed Justina's social needs in regard to family visitation, either at the Susan Wayne Center, or with a foster family or care center within the West Hartford area as described above. Justina has been constantly subjected to less-favorable visitation rights than other children who have surrounded her. Justina must be allowed much more frequent visitation. Ideally, visitation with her parents should occur whenever she desires, and whenever the family's schedule permits. Emotional support by her family, after 15 months' separation, is critical to her emotional well-being.

No timeline for goals: A final significant concern relates to the Plan's open-ended nature - given that nearly 15 months have passed since Justina was removed from her parents' custody, DCF's history in this case elicits serious concerns about the lack of specific deadlines.

If these concerns are adequately addressed, the Pelletiers believe that significant progress can be made toward the resolution of Justina's medical needs, and the return of Justina to her loving family.