

In the  
Indiana Supreme Court



INDIANA DEPARTMENT OF CHILD )  
SERVICES, )  
Appellant, )  
v. )  
D.S. and MADISON SUPERIOR COURT, )  
Appellees. )

Court of Appeals  
No. 48A02-0905-JV-428  
Madison Superior Court  
No. 48D02-0901-JD-26

ORDER

Following the issuance of a decision by the Court of Appeals, this matter has come before the Indiana Supreme Court on a petition to transfer jurisdiction filed pursuant to Indiana Appellate Rule 14.1, relating to certain interlocutory appeals in cases involving juveniles.

Along with its petition to transfer, the Indiana Department of Child Services (“DCS”) has filed a Motion to Supplement the Record and/or DCS Appendix with a one-page order attached to the motion. The Court GRANTS the DCS’s motion to supplement and directs the Clerk of this Court to insert that one-page order into DCS’s Appendix along with a copy of this order.

The Court has reviewed the decision of the Court of Appeals. The submitted record on appeal, all briefs that were filed in the Court of Appeals, and all materials filed in connection with the request to transfer jurisdiction have been made available to the Court for review. Each participating Justice has had the opportunity to voice that Justice’s views on the case in conference with the other Justices, and each participating Justice has voted on the petition.

Being duly advised, the Court now DENIES the petition to transfer jurisdiction.

The Clerk is directed to send a copy of this order to counsel of record and any unrepresented party who has appeared in this appeal.

Done at Indianapolis, Indiana, this 24<sup>th</sup> day of August, 2009.

Randall T. Shepard  
Randall T. Shepard  
Chief Justice of Indiana

Shepard, C.J., and Dickson, Sullivan, Boehm, and Rucker, JJ., vote to deny transfer.

Shepard, C.J.: This expedited appeal procedure was crafted through superb collaboration by all three branches of our government to provide protection from potential excessive spending in

placement of abused, neglected, or delinquent children. Through the first eight months of this undertaking, two such appeals have reached us. The first was a dispute over how quickly a child should be moved from placement with a relative living in Indiana to placement with the child's mother in another part of Indiana. Most of those participating in the case thought the rebuilding of the whole family would be more successful if the child (one of several, the others were already back with the mother) finished the school year in May with the relative. It hardly seemed the stuff of runaway trial judge spending.

In this case, the trial judge has been appealed for choosing the least expensive placement.

The Department has urged that the judge be commanded to place the child in one of several Indiana facilities, the cheapest of which will cost 50% more per day than the one in Arizona which all the remaining players, including the Prosecuting Attorney, think can provide the best chance to divert the juvenile from delinquency to a more successful life. That is, after all, the point of government intervention.

I stand fully ready to smack down anything that even sniffs of judicial overreaching or overspending. But if the appeals we have seen so far represent the worst instances of attacks on the public fisc, it suggests to me that judges, prosecutors, probation departments, and guardians are acting very responsibly.