

Court of Appeals, Division One

Juvenile

1 CA-JV 24-0061

IN RE: DCS/GUARDIAN

Appellate Case Information

Case Filed: 28-Mar-2024

Case Closed:

Dept/Composition

Department S

Hon. David B Gass

Side 1. ARIZONA DEPARTMENT OF CHILD SAFETY, an Agency, Respondent (Litigant Group) DCS

- Department of Child Safety

Attorneys for: Respondent

Kristin K Mayes, Esq. (AZ Bar No. 22584)

Kirsten J Wright, Esq. (AZ Bar No. 16340)

2 OPEN DUE DATES

Court Ordered Document due

Due By: Tuesday, September 24, 2024

Re: * ORDERED: By 09/24/2024, the Department must: 1. Update its Response to Administrative Order 2024-04 to correct the errors in its May 17, 2024 response and appendix. 2. Provide the information requested in Administrative Order 2024-04 for post-mandate ca

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CALENDAR

Tuesday HEARING
1-Oct-2024 Department S; COURTROOM 2
10:00 AM

CR Cases

11 PROCEEDING ENTRIES

- 1. 28-Mar-2024 FILED: Appellate Clerk Notice
2. 22-Apr-2024 FILED: DCS's Motion for Extension of Time to File List of Post-Mandate Cases Affected by Guardian System Disclosure Error (Motion for a Procedural Order); DCS's Certificate of Service (Respondent)
3. 24-Apr-2024 ORDERED: DCS's Motion for Extension of Time to File List of Post-Mandate Cases Affected by Guardian System Disclosure Error (Respondent) = GRANTED. Due date EXTENDED from Monday, 04-29-2024 to Friday, 05-31-2024. The court will not grant any further extension absent extraordinary circumstances. FURTHER ORDERED: If the Department fails to timely transmit the list of all post-mandate cases, or fails to comply with this Order, this court may place the matter on the court's Order to Show Cause Calendar to give the Department an opportunity to show cause, if any exists, why this court should not hold it in civil contempt and imposes fines and other sanctions until the Department files the list as required by this Order and to otherwise ensure compliance with this Order. FURTHER ORDERED: The court may take any other actions it deems appropriate in the circumstances. Hon David B Gass - Author
4. 29-Apr-2024 FILED: DCS's Notice Re: Two Specific Post-Mandate Cases; DCS's Certificate of Service (Respondent)
5. 17-May-2024 FILED: DCS's Response to Administrative Order 2024-04; DCS's Certificate of Service; Appendix to DCS Response to Administrative Order 2024-04 (Respondent)

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11 PROCEEDING ENTRIES

6. 26-Jul-2024 ORDERED: By 09/24/2024, the Department must: 1. Update its Response to Administrative Order 2024-04 to correct the errors in its May 17, 2024 response and appendix. 2. Provide the information requested in Administrative Order 2024-04 for post-mandate cases from April 3, 2024 to the date of this Order. 3. Describe all efforts it is making to disclose the documents to the parties in each appeal the Department identifies as having incomplete disclosure. FURTHER ORDERED: The Department must transmit to the Court a list of all cases with pending appeals by 09/24/2024. For each case, the Department must: 1. Identify whether the case is affected by the Guardian system disclosure issues discussed above. 2. Identify all undisclosed documents. 3. Report whether the Department has disclosed those documents to all parties. 4. Indicate whether it requested a stay of the appeal. FURTHER ORDERED: Setting a status conference before the Court on 10/01/2024, at 10:00 a.m., in Courtroom 2, 1501 West Washington Street, Phoenix, Arizona 85007. At this status conference, the Department must produce a representative who can explain what steps the Department has taken to address its failure to timely disclose documents in post-mandated cases and how it intends to ensure these issues are resolved pre-mandate in all pending cases. FURTHER ORDERED: The Court may place the matter on the Court's Order to Show Cause Calendar if the Department fails to comply with any portion of this Order. At that hearing, should it occur, the Court would give the Department an opportunity to show cause, if any exists, why the Court should not hold it in civil contempt and impose fines or other sanctions to ensure compliance with this Order. FURTHER ORDERED: The Court may take any other action it deems appropriate in the circumstances. FURTHER ORDERED: The Clerk of the Court shall file this Order in 1 CA-JV 24-0061. Hon David B Gass - Author
7. 1-Aug-2024 FILED: DCS's Request for Status Conference Regarding Administrative Order dated 07/26/2024 (Motion for a Procedural Order); DCS's Certificate of Service (Respondent)
8. 2-Aug-2024 ORDERED: DCS's Request for Status Conference Regarding Administrative Order dated 07/26/2024 (Respondent) = GRANTED/ setting a status conference before Chief Judge David B. Gass, Vice Chief Judge Randall M. Howe, and Judge Maria Elena Cruz on 08/05/2024, at 1:30 p.m., in Courtroom 2, 1501 West Washington Street, Phoenix, Arizona 85007. FURTHER ORDERED: Kirsten J. Wright and David M. Lujan must be present for the hearing. Hon David B Gass - Author
9. 6-Aug-2024 FILED: Sign-in Sheet for Oral Argument (Status Conference) on 08/05/2024
10. 16-Aug-2024 FILED: DCS's Response to the Court's Orders from the August 1 [sic], 2024 Status Conference; DCS's Certificate of Service; Attachments (Respondent)
11. 16-Aug-2024 ORDERED: Affirming in full this court's 07/26/2024 order. The questions in this order are intended to clarify that order. FURTHER ORDERED: The Department must respond to all inquiries in writing to the court by 09/24/2024. FURTHER ORDERED: Affirming the status conference before this Court on 10/01/2024, except that, for scheduling reasons, the hearing is rescheduled to 1:30 p.m., in Courtroom 2, 1501 West Washington Street, Phoenix, Arizona 85007. At this status conference, the Department must produce a representative who can answer questions about information identified in this order and the 07/26/2024 order. FURTHER ORDERED: In each currently pending Division One appeal in which the Department is a party, a Department representative must file an affidavit affirming that to the best of the affiant's ability he or she has confirmed the Department has disclosed to the parties all documents in the Department's possession at the time of the adjudication hearing. If the Department's representative cannot make this affidavit, the representative must explain the case-specific disclosure that remains outstanding. FURTHER ORDERED: In each pending appeal, counsel for the Department must file a notice avowing counsel has communicated with his or her client to ensure, to the best of counsel's ability, all disclosure is complete. For all appeals filed after the date of this order, counsel must file this notice and avowal before the court will issue a notice of completion. If counsel cannot make this avowal, counsel must request a stay and remand until counsel can make such an avowal. FURTHER ORDERED: For all appeals filed after the date of this order, the Department must file this affidavit and avowal before the court will issue a notice of completion. FURTHER ORDERED: This court will not issue a mandate in any pending appeal until these requirements are satisfied. FURTHER ORDERED: Following the 10/01/2024 status conference, the court may place the matter on the court's Order to Show Cause Calendar if the Department fails to comply with any portion of this order or the 07/26/2024 order. At any show cause hearing the court may schedule, the court would give the Department an opportunity to show cause, if any exists, why the Court should not hold it in civil contempt and impose fines or other sanctions to ensure compliance with this order and the 07/26/2024 order. FURTHER ORDERED: The Court may take any other action it deems appropriate in the circumstances. Hon David B Gass - Author