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7 Attorney for Caregiver

8
9 SUPERIOR COURT OF CALIFORNIA
10 COUNTY OF XXX
11 JUVENILE DIVISION

12 In re the Matter of:

13 A, B, C and D

14 Minors.

) Case No.: XXX
)
) APPLICATION FOR INTERVENTION;
) REQUEST FOR DETERMINATION OF
) DE FACTO STATUS; DECLARATION
) OF Caregiver; POINTS AND
) AUTHORITIES
)
) DATE:
) TIME:
) DEPT.:

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18 I, attorney, hereby apply on behalf of Caregiver, the current and former caretaker
19 of the minors, A, B, C and D, for an Order Granting Leave to Intervene and conferring
20 de facto parent status in the above-entitled action as authorized by Section 387(b) of
21 the California Code of Civil Procedure.

22 Additionally, it is requested that attorney, attorney for the Applicant, receive
23 notice of all Court proceedings related to the above-entitled matter and that she be
24 allowed access to review and copy all relevant documents and be served with relevant
25 documents hereafter filed. The address for service is X. The telephone number is X.

1 This application is being made on the grounds that Caregiver has a right to
2 intervene conferred by law in that she is so situated that the disposition of the action,
3 may, as a practical matter, impair or impede her ability to protect that interest which is
4 not being adequately represented by the existing parties.

5 This application is based on the attached Declaration and Memorandum of
6 Points and Authorities filed herewith.

7 **II.**

8 **MEMORANDUM OF POINTS AND AUTHORITIES**

9 **LAW**

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11 The concept of the de facto parent in dependency proceedings is one that is
12 judicially created and maintained. (In re Brandon M. (1997) 54 Cal.App.4th 1387, 1393,
13 63 Cal.Rptr.2d 671) A "de facto" parent is defined as a person who is the current or
14 recent caretaker of a child and who has been found by the court to have assumed, on a
15 day-to-day basis the role of parent, fulfilling both the child's physical and psychological
16 needs for care and affection, and who has assumed that role for a substantial period."
17 (Cal.Rules of Court, Rule 1401(a)(4); See In re B.G. (1974) 112 Cal.3d. 679, 692, 114
18 Cal.Rptr.444) De facto parent status provides a non-biological parent who has
19 achieved a close and continuing relationship with a child the standing to appear as a
20 party, in addition to the right to be represented by counsel, and the right to present
21 evidence at dispositional hearings. Absent such status, very important persons in the
22 minor's life would have no vehicle for asserting and protecting their own interest in the
23 companionship, care, custody and management of the child and a court would be
24 deprived of critical information relating to the child's best interest. (In re Patricia L.
25

1 (1992) 9 Cal.App.4th 61, 11 Cal.Rptr.2d 631) It has been held that because a court
2 can only benefit from having all relevant information, a court should liberally grant de
3 facto parent status. (In re Rachael C. (1991) 235 Cal.App.3d 1445, 1452, 1 Cal.Rptr.2d
4 473 *disapproved on other grounds to the extent inconsistent with In Re Kieshia E.*
5 (1993) 6 Cal.4th 68, 79-80, 23 Cal.Rptr.2d 775)

6 Whether a person falls within the definition of a "de facto parent" depends
7 strongly on the particular individual seeking such status and the unique circumstances
8 of the case. (Seiser and Kumli, California Juvenile Court's Practice and Procedure
9 (1998) §2.60A, p. 2-85) The courts have identified several factors relevant to the
10 decision of whether a person is a de facto parent. These considerations include
11 whether:
12

- 13 (1) the child is psychologically bonded to the adult;
- 14 (2) the adult has assumed the role of a parent on a day-to-day basis
for a substantial period of time;
- 15 (3) the adult possesses information about the child unique from the
other participants in the process;
- 16 (4) the adult has regularly attended juvenile court hearings; and
- 17 (5) a future proceeding may result in an order permanently foreclosing
any future contact with the adult. (In re Patricia L. (1992) 9
18 Cal.App.4th 61, 66-67, 11 Cal.Rptr.2d 631)

19 The law is clear that the decision to award de facto parent status focuses on the
20 person's own interest in and relationship with the child, if any, and not his or her interest
21 in preserving the child's relationship with the parent. (In re Daniel D. (1994) 24
22 Cal.App.4th, 1823, 1835-1836, 30 Cal.Rptr.2d 245)

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III.

DISCUSSION

In the instant case, the minors have resided in the home of Caregiver for periods between six months to a year from 1995 through the present. The minors are currently placed with the Applicant. As shown in the attached declaration of Caregiver filed herewith, the Applicant currently has a close and bonded relationship with the minors. She has provided for these children on a day-to-day physical, emotional, and medical basis. She is uniquely situated and has provided for these needs as if these were her own children for significant periods of time.

In support of this motion, Caregiver has submitted a declaration which details the quality of her relationship with the minors. This declaration reveals that she is thoroughly dedicated to caring for all of the minors' needs and further, that she has a tremendous amount of love for these minors.

The type of relationship which exists between these children and Caregiver is exactly the type of relationship recognized in cases which have been awarded de facto parent status. Likewise, this is the same type of relationship which courts have found worthy of protection by means of intervention in the dependency process.

A case which is particularly on point is In re Rachael C. (1991) 235 Cal.App.3d 1445, 1 Cal.Rptr.2d 473. In In re Rachael C., the Third District Court of Appeal reversed the decision of a lower court which denied de facto parent status to a minor's caretakers. In finding that the caretakers should have been given de facto parent status, the court pointed to the fact that the caretakers had for the first nine (9) months

1 of the child's life, been that child's sole custodians and caretakers. Referring to the de
2 facto parent applicants, the court said:

3 They raised her like she was their own child. This is the assumption of
4 the role of parent on a day-to-day basis for a substantial period of time.
5 Appellants obviously acquired an interest in the companionship, care,
6 custody and management of the child and are in a unique position to
7 provide information about the child and her early life. (Id. at P. 1453)

8 The court found that this was a sufficient showing to entitle appellants to
9 participate as de facto parents. Likewise in the instant case, Caregiver has cared for
10 the minors for periods between six months to a year from 1995 through the present.
11 She has been these children's custodian and caretaker and has raised them like they
12 were her own children, providing them with love, nurturance and stability.

13 A review of the factors relied on by the court in In re Patricia L. (1992) 9
14 Cal.App.4th 61, 11 Cal.Rptr.2d 631) to establish the existence of a de facto parent
15 relationship, reveals the existence of those factors in the instant case.

16 The minors are extremely psychologically bonded to Caregiver. This is
17 evidenced by both the growth the minors have made in the home of Caregiver and the
18 love which the minors show for Caregiver. (Please see the declaration of Caregiver
19 attached hereto) Caregiver has assumed the role of a parent on a day-to-day basis for
20 approximately three and a half years. During this time, Caregiver has cared for the
21 minors' needs constantly with great love and devotion. This care has made Caregiver
22 uniquely able to take care of the minors' needs.

23 Therefore, the type of relationship which exists between Caregiver and the
24 minors is exactly the type of relationship recognized in cases which have been awarded
25

1 de facto parent status. Likewise, this is the same type of relationship which courts have
2 found worthy of protection by means of intervention in the dependency proceedings.

3 **IV.**

4 **CONCLUSION**

5 Based on the analysis set out above, it is respectfully requested that this court
6 award Caregiver de facto parent status and grant her request to intervene in this
7 matter.
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9 Respectfully submitted:

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11 DATED: _____

12 Attorney
13 Attorney for Caregiver
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Firm
BY: Attorney CSB#
Address
City, CA ZIP
Phone
FAX

Attorney for Caregiver

SUPERIOR COURT OF CALIFORNIA
COUNTY OF XXX
JUVENILE DIVISION

In re the Matter of:) **Case No.: X**
)
A, B, C and D) **DECLARATION OF Caregiver IN**
) **SUPPORT OF APPLICATION FOR**
Minors.) **INTERVENTION AND REQUEST FOR**
) **DETERMINATION OF DE FACTO**
) **PARENT STATUS**
)
) **DATE:**
) **TIME:**
) **DEPT.:**

I, Caregiver, state and declare the following:

1. I am the maternal aunt of the minors.
2. The minors have been under my care and supervision for periods of six months to one year from 1995 to the present.
3. The minors have remained in my care during periods when their mother could not care for them for almost four years and have been cared for by myself and my brother, their maternal uncle during the course of these proceedings.

1 4. During these time periods, their uncle and myself have been the primary
2 caregivers for the minors' physical and emotional needs. As primary caregivers
3 while they have been under our care, I have fed them, bathed them, clothed
4 them, and taken care of their medical and dental needs. I have also engaged
5 with and taken them to activities. I have taken care of these minors' needs
6 along with their uncle for the past four and a half years periodically, and since
7 the minors have been detained. I would like to be considered for de facto status
8 so that placement of these minors can occur in my home and so that I may
9 participate in these proceedings and protect the best interests of these minors.

10 5. I love the minors tremendously and wish to keep them in my care and custody
11 and participate in the proceedings.

12 I, declare under penalty of perjury under the laws of the State of California, that the
13 foregoing is true and correct to the best of my knowledge and that this declaration was signed
14 in XXX, California.

15
16 DATED: _____

17 _____
18 Caregiver
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