

## TOP TEN DYFS CASES TO KNOW

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1. In re Guardianship of Cope, 106 N.J.Super. 336 (App.Div.1969) -Establishes the conditions required in order to admit hearsay evidence through caseworker testimony in a DYFS proceeding. In DYFS proceedings, evidence upon which judgment is based must be as reliable as the circumstances permit and the answering parent must be given the fullest possible opportunity to test the reliability of the Division's essential evidence by cross-examination
2. G.S. v. Department of Human Services, 157 N.J. 161 (1999) - Establishes the negligence standard for DYFS proceedings. Simple negligence is not enough. A gross negligence standard should be employed in determining whether the parent or guardian has failed to exercise a 'minimum degree of care'. The Court's analysis must focus on the harm to the child.
3. In re D.T., 229 N.J.Super. 509 (App.Div.1988) - Proof of the injuries sustained by the child or of the condition of the child of such a nature as would ordinarily not be sustained or exist except by reason of the acts or omissions of the parent are prima facie evidence that the child is an abused or neglected child. Upon the Division making a prima facie showing, the burden of coming forward with evidence shifts to the parents to prove themselves non-culpable. However, the burden of proof always remains with DYFS to prove the abuse.
4. Doe v. G. D. 146 N.J.Super. 419 (App.Div.1976) - Substandard, dirty and inadequate sleeping conditions are unfortunate incidents of poverty; they do not establish child neglect or abuse. Failure to educate and provide intellectual stimulation was not the intended definition of educational neglect; parent contribution to truancy or interference with normal education is required. If a child is voluntarily placed with DYFS, then the agency retains the child over the

parent's objection, the parent is under no duty to follow DYFS's advice as to child-rearing.

5. New Jersey Div. of Youth and Family Services v. G.M., 398 N.J.Super. 21 (App.Div.2008) - At the conclusion of the Division's case, if the accused parent has been found not to have committed the alleged acts, or has addressed the issues prompting DYFS involvement, the parent is entitled to a hearing to determine whether custody should remain with the non-accused parent or should revert to the exonerated parent.
6. New Jersey Div. of Youth and Family Services v. J.Y., 352 N.J.Super. 245 (App.Div.2002) - In order for a factual stipulation in an abuse or neglect case to be valid, the judge must be satisfied that there is a factual basis from which to conclude that parents have committed some specific act or acts which constitute abuse or neglect and that the parents willingly, knowingly and voluntarily agree that they have committed these acts. Reliance upon a stipulation to "at least one allegation" in a Complaint or review of unidentified documentary evidence will not suffice.
7. New Jersey Div. of Youth and Family Services v. M.C.III, 2010 WL 1222160 (N.J.), Decided March 31, 2010 - Doctrine of invited error bars a parent from contesting on appeal the admission of evidence to which there was no objection at the trial level. The Court provides guidance as to evidentiary issues in DYFS proceedings, specifically noting that a treating physician may be a Division medical consultant, as contemplated by R. 5:12-4(d).
8. New Jersey Div. of Youth and Family Services v. K.M., 136 N.J. 546 (1994) - DYFS is statutorily empowered to bring concurrent but separate Title 9 abuse-or-neglect proceedings and Title 30 termination proceedings against the same family.
9. In re Guardianship of K.H.O., 161 N.J. 337 (1999) - Drug use during pregnancy, in and of itself,

does not constitute a harm to the child. The child is harmed by the mother's drug use, however, when the drug use results in the child being born addicted to drugs with the attendant suffering caused by such addiction. Drug rehabilitation can counter the second prong of the standard for termination.

10. New Jersey Div. of Youth and Family Services v. A.W., 103 N.J. 591 (1986) - Parental behavior is relevant in termination matters only insofar as it indicates a *further* likelihood of harm to the child in the future. Parents are not to be adjudged unfit because they lack resources or intelligence, but only by reason of conduct detrimental to the physical or mental health of the child, specifically in the form of actual or imminent harm.