

EXCERPT FROM JUDICIAL COMMISSION APPLICATION (names have been changed where necessary for privacy/protected party reasons):

20. **List by case name and date the five cases of most significance to you (including cases pending in which you have been involved), and list or describe:**

- a. **case name and date,**
- b. **court and presiding judge and all counsel,**
- c. **the importance of each case to you and the impact of each case on you,**
- d. **your role in the case.**

Admittedly, in 2007, when I was in private practice and applying for consideration by the Commission I found this question much easier to answer. Along each of my career steps I learned from cases I was responsible for, but the individual cases meld together and ultimately become a skill or lesson to be applied at the next phase of my career; each a building block to becoming a better attorney, and now, a better jurist. That being said, there are still several cases from private practice, from my experiences as a District Attorney and from my current position that will be a part of me forever for reasons that I explain hereafter.

1. In the Matter of D.M.

- a. First filed an appearance in the case July 30, 2009
- b. Eighth Judicial District Court, Hearing Master Tom Leeds; the Department of Family Services was represented by the Juvenile District Attorney's Office.
- c./d. My clients, the Bells, were the maternal grandparents of D.M., a nearly three year old child who was taken into custody and made a ward of the Court at the time of her birth; her mother's abuse of drugs made her unable to adequately provide for D.M.'s care. When D.M. was six months old, her mother (my clients' daughter) died of a drug overdose. D.M.'s father was incarcerated and, therefore, also unable to provide for D.M.'s care. At the time the Department of Family Services took D.M. into custody, they made the decision to place D.M. in the care of foster parents who were hoping to have the chance to adopt D.M. This occurred contrary to Nevada law which required a ward to be placed with an available relative over any non-relative. Once the Bells learned of the permanency plan for D.M., they retained my services to file an action for placement of D.M.

The case was significant because of the potential impact to my clients in the event we did not prevail: the only remaining link to their daughter would be severed. Unlike the other cases I've identified herein, there was no way to compromise in this case; the only way to win would be to convince the Court that the Department failed to make reasonable efforts to place D.M. with the maternal grandparents and that it was in the best interests of the child to be placed with my clients in spite of the existing bond with her foster parents. Following a bench trial, the Court found in favor of my clients.

The case was significant because of the impact on my clients; but, in retrospect, it was also important for me to witness the consideration and weighing of evidence by Hearing Master Leeds to reach the correct - and courageous - outcome. My client prevailing meant D.M. was going to be removed from the foster family she'd been with since her birth and that the foster family would be losing a child they loved (much like my client had when D.M.'s mother died).

Yet, Hearing Master Leeds prepared a written decision that withheld the scrutiny of an Objection by the Department to the District Court. That case gave me a greater appreciation for the challenges that can be faced even by Hearing Masters; challenges that I would soon experience personally.

2. In the Matter of the Guardianship of M.T.

- a. Filed November, 2012
- b. Eighth Judicial Court, Judge Vincent Ochoa
- c./d. M.T. was nearly nine years old when her father was arrested for the murder of her mother. I represented M.T.'s paternal grandmother in a contested action to obtain guardianship of M.T.. The opposing parties were M.T.'s maternal grandmother and maternal aunt.

Obviously, the case is memorable because of the tragedy that preceded it, but also because of the beautiful way in which it was ultimately resolved: with the parties settling on a schedule that would allow them all to maintain a meaningful relationship with M.T.. The case was significant for me because it exemplified that "winning" a case for client a does not have to mean beating the other side. It also confirmed for me that the right outcome, swiftly reached can help heal people.

3. Petition for Adoption by Wendy Juneau, Bonnie (Madison) Levy

- a. Filed March, 2011
- b. Eighth Judicial Court, Judge Cheryl Moss
- c./d. Among the hundreds of adoptions I have been a part of, none has had been as memorable or unusual as my representation of Wendy and Madison as it presented issues neither I, nor the world-renowned reproductive rights attorney I consulted with, had dealt with before.

Madison was a nurse-midwife; she and her partner, Wendy, were in the process of trying to adopt a child. In the course of her work, Madison learned of a surrogate who was due to give birth in two months who had no one contracted to adopt the baby she was carrying. While you may have to have some knowledge of this area of law to appreciate how unusual that is, suffice it to say most women carrying a baby not biologically related to her typically get into that position as a result of some specific agreements and plans. This surrogate, however, had contracted with a shady surrogacy agency that subsequently came under Federal indictment and fled the country. Thus, the surrogate was left pregnant and stranded. Madison and Wendy wanted to know what needed to be done to adopt her baby. Due, in large part to the determination of my clients, we were able to accomplish all that needed to be done to terminate the parental rights of an unknown father and an unknown mother and get my clients approved to adopt.

As an aside, the agency principles were ultimately convicted of violating numerous laws governing reproductive rights. Subsequently, my clients were informed that the agency owner was believed to have fathered hundreds of the babies adopted from his agency, including the boy adopted by Wendy and Madison. Although my clients elected not to have DNA testing done to confirm their son's parentage, he is registered in a data base of babies born via the agency so that future siblings can be identified, if necessary.

The case presented frequent roadblocks and unchartered legal proceedings. But I learned that for every problem there is a solution: sometimes it has to be found, sometimes it has to be created.

4. Phoukeo Dej- Oudom v. Jason Dej-Oudom

a. Filed June, 2016

b. Eighth Judicial District Court, Domestic Violence Division, Hearing Master Amy Mastin

c./d. Phoukeo Dej-Oudom was not the first homicide victim who had filed for an Order of Protection in my Court before she was killed; sadly, the list of those who came before her is long. The Dej-Oudom case, however, is an allegory of all that is difficult and tragic about the cases I have heard for the past five years. Ms. Dej-Oudom's case best exemplifies that predicting human behavior is not a perfect science - especially human behavior that is unthinkable to most of us - but in my role, I am tasked with trying to do that anyway.

My job requires me to review Applications for Order of Protection that are completed (usually) by self-represented litigants. Upon my review of an Application, I can grant an *ex parte*, emergency Order for 30 days if the statutory criteria is met, set a hearing if I need additional evidence before deciding whether the legal standard is met, or I can deny the Applicant's request for an Order of Protection altogether if I do not believe there is a current need for one. While it is easy to want to "err on the side of caution", the consequences of an Order being entered against an Adverse Party can be substantial and I am careful not to enter Orders where they are not necessary.

There are numerous problems inherent in this process. Victims of domestic violence are often not their own best advocates. They do not see their circumstances accurately and, therefore, do not accurately convey the seriousness of the danger they are in. As laypeople, victims also often fail to accurately perceive the factors that are important to someone who is trying to assess the current risk of their situation, and will focus their narrative on irrelevant factors. All of these factors were true about Ms. Phoukeo Dej- Oudom, and as a consequence I did not appreciate the current threat to her safety when I reviewed her Application for an Order of Protection. Consequently, I denied her request. Six weeks after I failed to grant her an Order of Protection, her husband that she had sought to be protected from murdered their three children, killed his wife and then himself.

I do not know that I can put into words the importance and impact of Ms. Dej-Oudom's case. I struggled for weeks to forgive myself and to get over the fear of making another "mistake". I longed for a job where, on the worst day, no one dies. I agonized over every decision, struggled to find my objectivity, prayed for omnipotence. Ultimately, I had to accept that this job will always have the potential to call my judgment into question and the potential to break my heart. Tragically, I have heard numerous cases that exemplify this cycle since the Dej-Oudom case. I had to accept that perfection is not possible and that my job is to rely on my education, training and experience to make my best decisions.

5. In the Matter of the Adoption of . . .

- a. Filed from July, 2009 through November, 2013
- b. Eighth Judicial District Court, various departments

c./d. At the time I was put on the list of attorneys approved to finalize the adoptions of children from the foster care system, I had already worked as a Deputy District Attorney in the juvenile division. I knew the process and knew the miracle of adoption. However, as a prosecutor focused on the capacity of abusive or neglectful parents to parent, I did not fully appreciate the adoption side of the equation. The hundreds of adoptions I saw to finalization while in private practice allowed me to experience the process from the side of a foster-adopt parent and the foster-adoptive child. These relationships were often grandparents and even great-grandparents who found themselves unexpectedly raising their child's child. Or they were aunts/uncles who accepted responsibility for the child their sibling bore but was not capable of raising. Or, they were complete strangers compelled to help by providing permanency for children whose own parents were not capable. I have completed adoptions for medically fragile children destined to die at an early age, and intellectually challenged children who are likely to require care long after they turn 18. Each and every case was a miracle of fate and circumstance bringing together parents with children they did not intend to have. It was moving, eye-opening, life affirming. I was honored to be a small part of their lives.