



Legal Ethics Scenarios



Scenario 1: High Quality Legal Representation



You are the GAL for five kids, ages 8 and 2. They are currently placed with their maternal grandmother. They have been placed there now for 6 months.

Mother struggles with mental health management and substance abuse. Father does as well but is currently serving three years in prison.



Grandmother has expressed issues with the Agency in email, phone calls, meetings, during case plans, and in court. The Grandmother's concerns included:

- the agency not communicating with Mother,
- not assisting her in obtaining substance abuse or mental health treatment,
- not providing transportation for visitation because there isn't the required distance, and
- not following through on the paperwork required for the 8-year-old to be able to remain in her home school or school of origin where her SPED/autism services are received



The case manager has been very vocal about his frustrations with Grandmother constantly questioning what the Agency is doing to support Mother's treatment and reintegration plan.

The case manager provided notice that he intended on moving the children due to concerns with Grandmother's ability to properly monitor and care for all five kids.



What are your duties in ensuring high quality legal representation in this situation?

- As the State's Attorney?
- As Mother's Attorney?
- As Father's Attorney?
- As GAL?



Fast forward 10 months

Father remains incarcerated. Mother has run the continuum of remaining engaged and making progress towards extended unsupervised visits, to then relapse.

The Agency is adamant that parents' rights should be terminated. The State's Attorney agrees. However, you do not agree as GAL.



What are your duties as GAL in zealously advocating for the BIOOC at Pretrial? Trial? Appeal?

What are your duties as Mother's attorney in zealously advocating for the BIOOC at Pretrial? Trial? Appeal?



What about as Dad's Attorney?

What opportunities are there out of court to advocate?



Scenario 2: Joe, Sally, and Jennifer



Sally was recently picked up as a runaway. When she spoke with the juvenile intake worker, she reported she did not like living at home because Mother was more concerned about her boyfriend than caring for Sally.



Sally said she was basically allowed to come and go as she pleased, and the only reason Mother called her in as a runaway this time was because child protective services was coming to do a walkthrough of the home after a report was made concerning the condition of the home.



Law enforcement did not think there was enough to place the child into police protective custody, but juvenile intake sent the report for Joe, the county attorney, to review for a possible child in need of care case due to the run behavior. As Joe reviewed the report, he thought the name sounded familiar, but being from a small community he assumed he had just heard the name mentioned before.

He used the minimal information he had been provided and prepared and filed a child in need of care petition. When the matter came before the court Joe thought the mother looked familiar, but he again shrugged it off.



At the hearing, Sally’s guardian *ad litem* reported Sally had been living with her grandparents until they were killed in a car accident a few months back and that she wanted to go live with her cousin, who lived in Smallville, just 8 miles away.

Joe suddenly realized he had heard this story and it all clicked; the cousin Sally wanted to live with was his former legal assistant Jennifer who left shortly after her grandparents were killed in a car wreck.



Jennifer had talked about her cousin and had asked Joe if there was anything she could do to help her cousin out. Joe told Jennifer some options she had like making a DCF referral, filing for guardianship case or even filing a private child in need of care case.



Can Joe continue to prosecute the case?

What should Joe have done different to prevent this situation?



Scenario 3: Amanda



You are appointed as GAL for Amanda, a 16-year-old placed with her maternal grandmother. Amanda was removed from her mother's care because of her mother's history with DCF of substance use and domestic violence Amanda witnessed with several of her mother's boyfriends.

Amanda has been placed with her grandmother for two years. Amanda attends school, maintains a 3.9 GPA and plans to attend college.



The mother has not maintained sobriety consistently, has unstable housing, sporadic employment, and has no boyfriend. Amanda has a strong bond with her mother and visits are unsupervised and regular. Amanda's mother and grandmother exhibit a strong bond and Amanda's grandmother expresses support for Amanda's mother and the relationship between Amanda and her mother.

Amanda, her mother, and her grandmother agree Amanda's placement should remain with grandmother, but Amanda does not want to be adopted by grandmother.



Amanda tells you she sees drug paraphernalia in her mother's current residence and her mother's boyfriend lives there and he was the boyfriend leading to her removal. Amanda reports no injuries or domestic violence. She also tells you she's staying at her mother's residence more than she should and her grandmother tells the caseworker that they follow the visitation schedule.

Amanda states her grades remain the same and she's attending school. Amanda asks you not to tell the caseworker or anyone because everything is fine and she's happy.



What do you tell Amanda?

Do you report what Amanda revealed?



Six months later Amanda reports she's visiting her mother but does not state if they follow the visitation schedule. She states the boyfriend is there and there is yelling, and Amanda is evasive about physical violence. Amanda states her mother is unemployed again; she doesn't cope well when she's unemployed and has too much time on her hands.

Amanda's grandmother reports they are following the visitation schedule and she supports Amanda and her mother and would report if anything were wrong.



Amanda reports she's attending school and her grades are the same as always. The CASA volunteer tells you that Amanda has unexcused absences, her grades are dropping, and the school expresses concern about her demeanor and affect.

Amanda states she wants to remain with her grandmother and insists she will attend school and improve her grades. She asks you not to tell anyone about her mother's instability because she is afraid she'll be removed from her grandmother.



How do you advise Amanda regarding her statement to remain in her grandmother's custody?

Do you recommend an appointment of an attorney to represent Amanda's expressed wishes?



Scenario 4: Madeline



You are court appointed in a CINC case to represent a mother, whose name is Madeline. Madeline herself has a learning disability and is somewhat challenged, but she has always kept in good contact with you, and you have had a positive attorney client relationship. She is very dedicated to her daughter, Dorothy, who is the subject of this action.



Dorothy is only two and is still non-verbal, but she has been extremely difficult to place in a long-term foster home and no family is in the area. She acts out in ways that make placements uncomfortable and has now been in over two dozen placements across Kansas in less than six months. As a result of this, she has not had consistent visits with any service providers and has not yet had any diagnosis.



Madeline divulges to you in confidence that Dorothy has a rare genetic disorder for which doctors rarely test but it can potentially lead to learning disabilities and behavior disorders, though likely not too severe or dangerous health problems.

Madeline explains that she's not sure if this disorder is the reason for Dorothy's behavior, but she is worried about it.



Madeline further explains that because she and Dorothy moved here from far away and she cannot remember any of the names of the pediatricians who worked with Dorothy, the two of you are now the only people involved in this case who might reasonably know this information.

She insists that you not tell anyone about this, because she worries that it will make the agency and the court lose even more faith in her ability to parent Dorothy.



The judge in the case is increasingly frustrated by the agency's inability to place Dorothy or to come up with any kind of a treatment plan and has set a hearing to potentially make a no reasonable efforts finding.



Do you have a duty to inform, or not to inform, the Court, or anyone of this information?

What should you do?



Scenario 5: Kate



Kate is the maternal grandmother for Ryker and you represent her as the relative placement. Ryker was removed at birth from his mother, Susan, because Ryker tested positive for drugs. Ryker was placed with Kate.

You learn Susan has a history of drug use and previous removal of Ryker's 2 older siblings, who were placed in a non-relative placement, who ultimately adopted Ryker's siblings. You learn Susan physically abused the siblings and the youngest required medical attention.



Kate tells you she knows Susan wouldn't intentionally hurt her children and believes it was Susan's boyfriend, but he's no longer in the picture. Susan tells the caseworker she will do whatever she needs to do because she will not lose another child.

Susan starts strong, submitting clean UAs, obtaining employment, maintaining stable housing and complying with the supervised visitation plan. Ryker develops a strong bond with Kate. At six months, the court allows visitation to be supervised by Kate, but no overnights.



The Court Report for the permanency hearing indicates Susan provided clean UAs initially, but she's failed to provide UAs for the past two months. Susan lost her job but remains in her residence. Kate reports the supervised visits go well. Kate tells you Susan maintains her residence because Kate pays the rent, and to pay the rent, Kate obtained daycare a part-time job. The job is in the evenings, and Kate could not find. Susan has been providing care for Ryker. Kate asks you not to tell anyone, and she wants to testify to support Susan.



How do you advise Kate?



At the next review hearing, the Court Report states Susan remains unemployed, and she's provided 2 dirty UAs. Further, the Court Report states DCF received an intake that Ryker suffered bruising on his back.

Upon assessment, Kate advised the bruising was from playing in the yard and DCF noted no further concerns. The adoptive couple of Ryker's siblings also indicated they were interested in placement of Ryker to keep the siblings together.



The Court Report further states Ryker is bonded to Kate and calls her mommy. Kate tells you she doesn't know what happened to Ryker and the injuries occurred while she was working and Susan said he fell in the yard.

Kate's worried Susan may be using but that boyfriend isn't around and she's not worried about Susan hurting Ryker because it was the boyfriend who hurt his siblings. Kate states that she loves Ryker and he can't go to the other couple.



How do you advise Kate to proceed?



Scenario 6: Omar and Luna



Bob is an attorney with a solo law practice. He says he “likes to keep things moving” and avoids what he describes as “large complex cases”. Instead, he tries to take on as many “simple, little cases” as possible that he can work through quickly. His current caseload consists of a few hundred active cases composed mainly of traffic, criminal defense, and juvenile cases.



Bob has been appointed by the court to represent Omar, the father in a child in need of care case regarding his two-year-old daughter, Luna. Omar is a young, Hispanic father.



Luna's mother's name is Emily. Omar and Emily dated for a few months prior to Luna's birth but are no longer in a dating relationship. They have never lived together. Emily and Omar maintain a cordial relationship.

There is no custody order regarding Luna, but she spends most of her time with Omar and only has brief visits Emily on weekends.



DCF became involved with Luna after Emily was arrested on a Saturday afternoon for Driving Under the Influence. Luna was in the car and Emily tested positive for opioids.

Law enforcement performed an emergency removal of Luna and she was placed with her maternal grandmother, Rachel.



Upon receiving notice of Bob's appointment as his attorney, Omar called Bob's office to discuss his case. Bob's assistant told Omar that he was in court and unavailable, but that Bob would meet with him at the courthouse prior to the temporary custody hearing.



On the morning of the hearing the court had a lengthy docket and was running an hour behind schedule. Bob had other cases on the docket prior to the hearing regarding Luna.

Omar had arrived at the courthouse over an hour early for the hearing and waited outside the courtroom so that he could meet with Bob.



Finally, Bob came out of the courtroom. He quickly introduced himself to Omar and told Omar that he handles this type of case all the time. Bob then said that the court's running behind, and they must go in the courtroom for the hearing right away.

Bob then added, "Relax. I represent lots of guys like you." After this 30-second exchange, they proceeded into the courtroom for the hearing.



At the hearing DCF recommended continued custody with maternal grandmother, Rachel. DCF further recommended that both of the parents be drug tested before any contact with Luna.

When the Judge asked Bob about Omar's position on temporary custody and placement, Bob stated that Omar agrees with DCF's recommendation and added that Rachel would be a great person to have custody of Luna.

The court gave Rachel custody in the temporary order.



After the hearing, Omar asked Bob to explain what happened in the hearing. Bob told Omar that this is how these cases go, and once Omar has a job, stable housing, is drug free, and can care for Luna, he will get her back.

Omar explained that he lives at home with his parents, has never used drugs, works, and his home is clean and safe. Omar asks why Luna is going to live with Rachel, when Rachel has never taken care of Luna. Bob tells Omar to call him next week so they can talk more, but that he couldn't talk now because he has another hearing on the docket.



What is Bob assuming?

What ethical concerns are there for Bob?

What could Bob do to remedy these ethical concerns going forward?



Scenario 7: Jenny and Peter



Jenny and Peter are 6-year-old twins who live with their mother. They are placed in DCF custody in early December after it was discovered they were living in Mother's car at a campground.

The family was unable to find housing, but the children continued to attend school and the school had no concerns about the children academically or behaviorally. The children stay with Mother's sister when not in school and mother is at work.



Father resides approximately 14 miles away with his wife and two young children. Father's wife and one of his children are deaf. Jenny and Peter are not deaf and not sign-lingual. The family has a 3-bedroom home in an excellent school district, that is appropriate for Jenny and Peter.

Father has a corporate job nearby; his wife is a stay-at-home parent. Father has not financially supported nor had contact with Jenny and Peter since they were approximately 9 months old. They have never met their step-mother.



The children are ultimately adjudicated and at disposition, Father requests Jenny and Peter be placed with him and his wife, advising his wife is available to care for the children.

Mother requests the children be placed with an aunt with whom the children stayed when Mother was working. Mother further argues Father's failure to provide support for the past five years have contributed to the twins residing in a car.



The aunt lives in a low-middle class neighborhood in an older part of town. She lives on Social Security and a small pension left by her deceased husband. Her home is adequate, clean, and safe.

The children tell their GAL that they want to live with the aunt, and the GAL recommends placement with the aunt, at the hearing.



Judge Blue places the children with Father, stating, “The father has a stable job and nice home in an excellent neighborhood and school district and his wife is available to care for Jenny and Peter. Jenny and Peter will get to know their dad and siblings and will have a much better chance at life at their father’s home.”



Should these facts raise concerns for the attorneys? If so, what are those concerns?

Does Judge Blue have a bias?



What are you relying on to draw that conclusion?

Do the concerns rise to the level of a complaint against the judge?