

*In re Alexander P.*

Honestly, no one could make this stuff up. In *In re J.L.* (2008) 159 Cal.App.4th 1010, 1019, the court recognized “the complicated pattern of human relations” where there arises more than one claimant to presumed father status. In 2013, the Legislature amended Family Code section 7612 to permit the designation of more than one presumed parent in appropriate cases where recognizing only two parents would be detrimental to the child. [*In re Donovan L.* (2016) 244 Cal.App.4th 1075; 2016 Cal Fam Law Monthly April (2016) 69].

There is a need for some context. Almost 25 years ago, the conflict between Dependency Court and the Family Law Court was the subject of considerable concern. [*The Perpetuation of Shattered Hearts: The Disturbing Conflict between Dependency Court and Family Law Jurisdiction*, Los Angeles Lawyer, July/August, 1993]. Little has been done to clarify the ongoing problem of conflicting orders and overlapping jurisdiction, as amply shown by the factual, procedural and substantive problems encountered in *Alexander P.*

Here are the cast of characters:

1. Heidi S.—Mother
2. Alexander P.—minor child (age 3)
3. Joel D.—Bio-Dad
4. Michael P.—cohabiting with Mom at time of child’s birth
5. Donald Q.—Step-father

In a family law proceeding, both Joel and Michael sought and were granted presumed father status pursuant to Family Code section 7611. In the Dependency Court, Donald was designated as a presumed parent pursuant to Family Code section 7611(d); Michael was denied visitation with the minor child. In addition, considering itself bound by the family court order, the juvenile court found both Michael and Joel to be presumed parents. Not surprisingly, everyone appealed.

The appellate court concluded that:

1. The juvenile court erred in finding Michael to be a presumed parent because Welfare and Institutions Code section 316.2 grants exclusive jurisdiction over paternity issues to the juvenile court upon the filing of a Dependency Petition. Thus, the family court order on which the juvenile court relied, issued subsequent to the Dependency Court filing, was void.
2. The same reasoning applied to the designation of Joel as a presumed parent.
3. The juvenile court’s designation of Michael and Joel as presumed parents was vacated and remanded to the juvenile court for an independent determination of their requests for presumed parent status.

4. Also vacated was the lower court's denial of visitation to Michael; that was remanded for reconsideration of his request in the event the court grants his request for presumed parent status.

5. As for Donald, his designation as a presumed parent was approved, the appellate court finding his designation as a presumed parent supported by substantial evidence, despite allegations of domestic violence by Donald against Mom, which caused the filing of the Dependency Court Petition in the first instance.

The Court of Appeal's lengthy opinion is supported by an avalanche of recent cases and quotes, a review of the detriment standard in the "more than two parents" statute, Family Code section 7612, and a concerted attempt to sort out and make sense of "the complicated pattern of human relations" referred to above. One can legitimately ask why these overlapping orders and conflicts between the juvenile court and the family court continue to plague the judicial system after so many years and bedevil citizens looking for clarity and justice. In *In re Chantal S.* (1996) 13 Cal. 4<sup>th</sup> 196, the California Supreme Court examined the distinction between Juvenile and Family Courts and the "separate purposes" of the respective courts. *Chantal S.* has been cited in more than 500 cases, yet clarity of overlapping orders and ambits of jurisdiction remain unhappily elusive.

Surely we can do better.

Let's certainly hope so.

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