



POST -DISPOSITIONAL ADVOCACY AND APPEALS

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POST-DISPOSITIONAL ADVOCACY

- It is a RIGHT!
- Includes representation at hearings, but much more than that

POST-DISPOSITION ACTIVITIES

737 Placement Reviews

Progress Reports

Restitution Hearings

Wardship Reviews/Dismissal Hearings

777 Probation Violations

788 Petitions to Modify

827 Petitions

781 Sealing Petitions

Tips for Managing the Work:

- Set regular times to review status and check in with post-dispo clients
- Identify clients who are more likely to have post-disposition issues arise
- Set reminders for time-sensitive issues

Source: National Juvenile Defender Center, Post-Disposition Practice Tool



What resources would you use to assist in maintaining obligations after disposition?

- a. Public Defenders
- b. Probation
- c. Social Workers
- d. Advocacy Organizations
- e. Parents/relatives
- f. The child's school

WHEN YOUR CLIENT IS AT HOME

Who is the Probation Officer?

Maintain contact (depending on client and resources).

- Depends on your schedule and client's needs. Enlist support (paralegals, interns, etc, to maintain contact. Set reminders.)

Is client struggling? If yes, what can you do to help them manage?

If client is doing well, can you reduce the level of supervision or terminate early?

WHEN YOUR CLIENT IS OUT OF HOME

Maintain contact with your client monthly or delegate to someone else.

Is the client detained pending placement?

Is the placement meeting the client's needs? Are they implementing appropriate services and following best practices?



Hypo #1

Client was very “needy” throughout case. They were placed in a RTC approximately 45-days ago. They called you and indicated the treatment center is doing “nothing”, they just sit there all day. There’s no treatment and the staff is “mean”?

What do you do?



Investigate:

- a) Call Residential Treatment Facility
- b) Visit Client/Visit Facility
- c) Call the Probation Officer
- d) All of the above

What else?



PROBATION CONDITIONS

A condition of probation will not be held invalid unless it:

- (1) has no relationship to the crime of which the offender was convicted
- (2) relates to conduct which is not in itself criminal, and
- (3) requires or forbids conduct which is not reasonably related to future criminality.'

Examples of exceptions: blanket electronics search

In re Ricardo P. (2019) 7 Cal.5th 1113

In re P.O. (2016) 246 Cal. App. 4th 288, 295

In re Erica R. (2015) 240 Cal.App.4th 907

Prohibition on contact with gang members (if case had nothing to do with gangs)

In re Josh W. (1997) 55 Cal. App. 4th 1

In re Laylah K. (1991) 229 Cal. App. 3d 1496

PROBATION REVOCATIONS AND VIOLATIONS

California Law

- WIC section 777
- Prop 21 (year 2000 – prohibited informal probation for felonies)
- In re. Kentron D. (2002) 101 Cal.App.4th 1381

Preparing for Revocation Hearings

PROBATION IS REVOKED. NOW WHAT?

Can you convince the court to reinstate with the same terms and conditions?


Should you convince the court to reinstate with the same terms and conditions?

Do you have an alternate disposition for the court to consider?



HYPO #2

Client is attending school (for the most part) but failing most subjects. They have a history of poor academics and you have initiated an IEP. Client qualifies. Is this a defense to Truancy or not maintaining satisfactory grades?



APPELLATE ADVOCACY

WIC section 1240.1

- Explain right to appeal and pros and cons
- File Notice of Appeal if directed

CA Law and Procedures – WIC section 800 (final judgement/referee or temporary judge)

Preserving the record -*In re G.C.* (misdemeanor or felony), get the judge on the record, state their reasoning for disputed decision

Potential appellate issues – findings, and motion rulings, placement, probation conditions, abuse of discretion, immigration issues, etc

Ethical duty to cooperate, even if IAC will be raised

Basic Overview of Steps

- Trial Attorney's ethical obligation to cooperate with Appellate Counsel
- Even if Appellate Counsel is raising ineffective assistance of counsel
- Obligation includes discussing case and turning over casefile

HYPO #3

After a particularly difficult adjudication, you filed notice of appeal because the client wanted you to, even though you saw no appealable issues. Appellate counsel calls you. They ask you why you didn't file motions X, Y, and Z, none of which are even applicable. Appellate counsel wants you to admit in a declaration that you failed to file motions X, Y, and Z, and wants to read your case notes.

What do you do?

RECORDS – SEALING

- Automatic Sealing
 - WIC section 786
- Petition for Sealing of Records
 - WIC 781 Sealing and Petition
 - Unsealing Records
- Viewing Records
 - 827 Requests and Viewing
 - 828 Law Enforcement Records



WHEN YOU'RE RETAINED AND THE MONEY RUNS OUT...

- Get relieved and have the public defender (or someone else) appointed
- Ask the court to authorize funding for subsequent hearings to keep you on the case

HYPO #4

After a particularly difficult adjudication which involved a lot of client management and a lot of investigation, the client is placed on probation with a lot of restrictions.

During the case (specific judge and prosecutor assigned) all parties discussed subsequent motions, issues, hearing. You also won't be surprised if the client violates probation.

You were retained and the client's family have already used up all available funds.

What do you do?

Discussion/Questions