

Case Examples

For Child Abuse and Neglect Petitions

Case Example 1:

A report was made to CPS, by a neighbor, that there was yelling and screaming of children and the neighbor was concerned that the dad might be scaring or hurting the children. The family consists of Judy (age 24), Jim (age 28), Janis (age 3) and Harley (age 9 months). The Family Functioning assessment reveals that Judy has visible bruising on her arms and neck. Judy admits that her husband caused the bruises when he was angry because he found Judy sleeping on the couch when he came home from work (the kids were also napping). Jim threw Judy off the couch and did not realize she was sleeping with the baby. When Jim grabbed Judy off of the couch, Harley fell off the couch in the struggle and began crying. Janis woke up and tried to get in between Jim and Judy. Jim pushed Janis to the floor to get her out of the way. Janis hit her head on the coffee table, but was not injured. Jim hit and kicked Judy and choked her until she became unconscious. When Judy woke up, Jim was gone and the children were crying. Jim has not returned home and Judy does not know where he is. Judy was afraid to call the police because she was afraid of what Jim would do if the police were called. Judy is also afraid to put Jim in jail because she has no means of financial support since Jim is the only one working. Judy also stated that Janis told her she was glad Daddy left and wished he would never come back because Daddy made her touch his pee pee to make it grow and she didn't like that game. Janis did not disclose any information about touching Jim's genitals when she spoke with the CPS worker.

History: Judy seems to minimize the history of physical violence, but admits that there were other physically violent episodes where her husband hurt her. Judy received 10 stitches for a cut above her eye after her husband hit her before her Harley was born. Judy said she told the Dr. she fell. Judy has left Jim and gone home to her parents three times. The first time he promised to never hurt her again, so she returned home. The second time he promised to stop hurting her and when she didn't go back, he started coming to her parent's house daily and causing a scene and harassing her parents. Judy didn't want to cause problems for her parents and their house was too small to accommodate her and the kids, so she returned home with more promises that the abuse would stop. When Judy left the third time, she was determined to stay away. When other tactics didn't work, Jim threatened to take custody of the children if Judy did not come home. Judy filed a protective order, but it was not granted in family court when Jim's attorney convinced the judge that Judy's allegations of violence were false allegations to gain custody. There was no physical evidence of the violence since Jim hit her in the head and did not cause injury. Judy was afraid if she did not return to Jim, he would get custody of the children and she did not think Jim could care for the children, since she had been the primary caregiver and Jim became easily agitated with the children.

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

IN THE INTEREST OF

Juvenile Abuse Neglect Nos.

Janis Cook D.O.B.: 5/1/2008

11-JA-47

Harley Cook D.O.B.: 9/30/2010

11-JA-48

Adult Respondents:

Jim Cook

PETITION TO INSTITUTE CHILD ABUSE AND NEGLECT PROCEEDINGS

The Department of Health and Human Resources, by Tom Jones, CPS Worker, and Judy Cook, petition the Court and allege as follows:

1. This proceeding is brought pursuant to W. Va. Code § 49-6-1 et seq.

The minor children named herein are Janis Cook, who was born on May 1, 2008; and Harley Cook, who was born on September 30, 2010..

Until June 7, 2011, the children, the Co-Petitioner, and the Respondent resided together at 47 Easy St., Charleston, Kanawha County, WV ;

The Department and Co-Petitioner are seeking a determination that the children are abused and neglected by Respondent, and are requesting an order placing the children in the exclusive care and custody of the Co-Petitioner;

The respondent is: Jim Cook, father, of 127 Main St., Charleston, WV 26505.

The Petitioner is Tom Jones, CPS Worker for the WV Department of Health and Human Resources.

The Co-Petitioner, Judy Cook is the mother of the children. The Co-Petitioner joins in this Petition to protect the children from further abuse and neglect at the hands of Respondent

Pursuant to West Virginia Code § 48-20-209, the following information is provided:

The names and present addresses of those with whom the children reside are: Jim Cook, 127 Main St. Charleston, Kanawha County, WV; Judy Cook, 47 Easy St., Charleston, Kanawha County, WV. ;

During the last five years the children have resided at: 47 Easy St., Charleston, Kanawha County, WV;

The undersigned has not participated in any capacity in any other litigation concerning the custody of the children in this or any other State with the exception of a matter in the Family Court of Kanawha County styled as “Judy Cook v. Jim Cook, 11-DV-127;”

The undersigned has no information of any other custody proceeding concerning the children in any court of this or any other State other than the above-referenced matter ; and,

The undersigned does not know of any person not a party to this action who has physical custody of the children or claims to have custody or visitation rights with respect to the children.

The conduct constituting abuse and/or neglect and requiring the child to be removed is as follows:

- a. On June 4, 2011, while inflicting domestic violence upon Judy Cook, Respondent pushed the child Janis Cook to the floor, causing her to strike her head on a table;
- b. On said date, the Respondent threatened the health and welfare of the children by committing an act of domestic violence upon Co-Petitioner in the presence of the children;
- c. Also on said date, the Respondent neglected the children by leaving them unattended while Co-Petitioner was incapacitated as a result of the domestic violence committed by Respondent;
- d. The child Janis Cook disclosed to Co-Petitioner Judy Cook that Respondent made Janis touch his genitals;
- e. Respondent has threatened the welfare of the children by repeatedly committing domestic violence on Co-Petitioner.
- f. Respondent’s whereabouts are currently unknown. If Respondent were located, there are no safety services or resources that could keep the children safe in his care.

WHEREFORE, the petitioner requests that the Court take the following actions:

1. Order exclusive custody of the children with the Co-Petitioner;
2. Appoint a guardian ad litem for the children;
3. Appoint counsel for the Respondent;
4. Appoint counsel for the Co-Petitioner;
4. Determine the financial support the Respondent will be required to furnish to the Department during the time the children are in the sole custody of the Co-Petitioner;
6. Schedule and conduct an adjudicatory hearing on this matter in accord with the requirements of West Virginia Code § 49-6-2; and,
7. Take such other actions that are necessary to protect the children from further abuse and/or neglect, including the termination of the Respondent's parental rights to the children if appropriate.

Petitioners

In Person and by Counsel

Judy Cook, Pro Se

47 Easy St.

Charleston, WV

304-555-1111

James Scott, Assistant Prosecuting Attorney for
the Department of Health and Human Resources
737 Walnut St.

VERIFICATION

The information, statements, and allegations I have made in paragraphs “1”, “2”, “4”, “5”, “6”, “8a”, “8b”, “8e”, and “9” of this Petition are true and accurate to the best of my knowledge, information and belief.

Petitioner

Date

The person named as the Petitioner made the foregoing affirmation before me on this _____ day of June, 2011.

Notary Public

My commission expires