



Legal Ethics Scenarios



Willie and Joan



Willie and Joan have three children in their blended family. Ava, 16, is Willie's daughter from a previous relationship; and Willie and Joan share two young biological children.



Ava, Willie's daughter, has been absent from school for 22 days and the county attorney has filed a CINC truancy case.

The hearing is scheduled for an initial hearing this morning. At the hearing, only the county attorney, Ava, her GAL, and a school representative appear in front of the judge.



The GAL represented Ava's estranged mother in a criminal matter several years ago. However, she feels that this has no bearing on her ability to advocate for the best interests of Ava and does not mention it, especially since Ava's mother is not involved in Ava's life in any capacity.



Before court is adjourned, Willie and Joan appeared with the other children and with their family preservation worker. The children appear disheveled and unkempt, and Willie and Joan appear to be under the influence of something.

The GAL asks that the parents provide a UA before leaving the courthouse.

Neither parent has an attorney.



The family preservation worker advises the court that when she picked Willie and Joan up for the hearing, the home was dirty and there appeared to be drug paraphernalia in the home.



The court orders UAs of both parents before leaving the courthouse.

Willie tests positive for methamphetamines and is arrested on a probation violation, but Joan does not test positive for any substances.

A CINC petition is filed, and the temporary custody hearing is scheduled for next week. Both parents are provided with court appointed attorneys.



Because Willie was the only parent arrested and the only parent that tested positive for drugs, Joan asks to meet with her attorney about requesting the children return to her care. While in the lobby of the attorney's office, a small baggie of white powder falls out of Joan's purse and is seen by office staff and Joan's attorney. She quickly picks it up and puts it back in her purse.

Joan's attorney has a huge case load and would like to get this case wrapped up quickly. He chooses not to address the baggie.



At the temporary custody hearing, Joan's attorney advocates that the children should remain with Joan, as she did not have a positive UA and continues to reside in the home. Joan agrees to continue work with family preservation services.



What ethical issues are raised by Joan's attorney seeing the baggie fall out of her purse?



Juliet



15-year-old Juliet is found in a house where her boyfriend and others are arrested for drug related crimes.

Juliet is taken into police protective custody.

Juliet's mother hears that Juliet is in custody from one of Juliet's friends and arrives to the police department the same day.



Juliet's mother is homeless and has a substance use disorder.

Juliet's mother tells police that she does not know who Juliet's father is. Juliet will not speak to police.

A CINC case is filed and Juliet's mother is appointed an attorney.



Juliet's mother tells her attorney confidentially that Juliet's father was granted residential custody more than six months ago from an out-of-state court, primarily due to her substance use disorder. He lives on an Indian reservation in Oklahoma.

She also says that Juliet told her that her father had molested her. Because of this, Juliet's mother took Juliet during her parenting time and came to Kansas without notifying anyone so that Juliet would be safe. Juliet's father did not file any kind of police report regarding the incident and has not demanded Juliet's return.



Juliet's mother tells her attorney that she does not want information disclosed about the father because Juliet's father is dangerous. She does not want to get in trouble, and she fears that no one will believe the story anyway.

Juliet has not reported the abuse to anyone but her mother.

The mother's attorney mentions to the GAL that there may be reason to know that Juliet is an Indian child but does not elaborate further.



Jonas



Jonas is a 14-year-old boy who was living in his family home with both parents.

A house fire resulted in Jonas having life-threatening burns.

Jonas' mother survives and is arrested and incarcerated facing charges related to drug manufacturing which started the fire.



The State files a CINC case and the court grants DCF custody of Jonas.

Jonas remains unconscious and is in the ICU at an out-of-state hospital that specializes in severe burns. He is currently on life support.

Two doctors have certified that Jonas will never be able to live without life support and are recommending a DNR for the child.



The family lives in a very rural area with a limited number of attorneys. Jonas' mother has the same court-appointed attorney representing her for the criminal matters and the CINC matter.

Jonas' parents must decide whether to remove Jonas from life support.

Jonas' father is represented by his own counsel and wants to remove the life support.



Because of the incident, the family needs a place to live, but has had difficulty finding a house or apartment, as the family has limited means.

Jonas' father's attorney is also a property owner and offered to allow the family to live in one of his low-cost rentals on a month-to-month basis until they can find alternative housing.



Avery



You are the GAL for Avery M. Avery is a 17-year-old girl who has been in foster care for since she was 15 due to her mother's drug use and unsafe living conditions.

Avery's father is deceased, and her mother has been working toward reintegration for the last two years. Progress has been slow, but her parental rights remain intact.

Avery is currently placed with her best friend and her best friend's parents.



Avery is very intelligent and does great in school. She is looking at colleges in Kansas and Oklahoma, where she plans to study medicine and become an orthopedist.

Avery has mentioned to you that she cannot afford medical school without significant financial assistance to help with both her educational and living expenses.



As her GAL, you are preparing for the next permanency hearing - reading reports from Avery's CASA volunteer and her case worker. Both reports indicate that Avery is doing well and has a bright future ahead of her.

The reports also indicate that since the last hearing (6 months ago), Avery's mom has been maintaining sobriety, has obtained adequate housing, is working, and has been attending required appointments.



Despite her mom's progress, Avery does not want to return to her mother's home. She would like to live on her own, and said she feels like if she goes back to live with her mom, she will never be successful in college or life.

Avery is working about 20 hours a week at a local factory and has saved her earnings with the intention of living on her own at 18.



Avery turns 18 in 3 months. She does not graduate high school for 5 months. You know that if she ages out of the system, she can access many more benefits than if she is reintegrated, including housing assistance, start up funds, and the tuition waiver.

However, you agree that the safety concerns have been addressed in the home and believe that Avery should return to her mother's care.



Avery's mother wants Avery home as soon as possible; however, her attorney thinks Avery would have more opportunity and better access to resources if she ages out of the system.

Believing that the best outcome for Avery is to age out of the system, the mother's attorney attempts to counsel the mother. She remains adamant that she is ready for Avery to come home.

Five days before the permanency hearing, the mother's attorney asks the court for a continuance, citing heavy case loads and calendar conflicts. A continuance is granted, and a new hearing is set out for the following week.



Over the next week, Avery's mother attempts to contact her attorney by phone and email, but the attorney has not returned the mother's call.

Avery's mother gets to the courthouse early to try to talk to her lawyer, but he's already in the courtroom on another case when she arrives.

At the beginning of the hearing, the mother's attorney asks to withdraw from the case.