

KEYWORD INDEX FOR CASE LAW UPDATES
2002 Cumulative

--A--

Abuse

Adoption

DSS's consent may be withdrawn – *In re Adoption of Cunningham*,
Petitions properly dismissed – *In re Adoption of Cunningham*,

Appeals Procedure (see also this index “Standard of appellate review”)

--B--

Battered Child Syndrome – expert witness's testimony properly admitted – *State v. Stokes*,

--C--

Child Witness

Protection from harm – *In the Matter of Williams*,

Constitutional Rights – See this index “Confrontation Clause,” “Due Process,” “First Amendment,”
“Fourth Amendment,” “Right to parent”

Court Authority

Cannot be delegated to other entity or individual – *In the Matter of B.A.*,

Court can call witnesses after a party rests its case as long as the other parties are permitted
adequate cross-examination of those witnesses – *In the Matter of Bethea*,

Criminal Record – *In re Ramsey*,

Criminal Statute

Caretaker defined – *State v. Carrilo*,

Element of Felony Child Abuse

--D--

Deference to Trial Court – *In re Fisher*,

Domestic Violence –

--E--

Evidence

Expert witness - *State v. O'Connor*, *State v. Stancil*, *State v. Stokes*,

Foundation for admission – *State v. Stancil*

Hearsay - See “Hearsay” below

Illustrative evidence - *State v. Carrilo*,

Prior bad acts - *State v. Carrilo*, *State v. Patterson*

Prior convictions – *In re K.M.A.*,

Prior injuries – admission of evidence was permissible – *State v. Stokes*,

Evidentiary Standard

Interchangeable nature of words – *In re Mosley*,

Must be stated in court order – *In re Anderson*,

Reasonable doubt is standard under ICWA – *In the Matter of Williams*,

Sufficient facts presented to meet requisite standard – *In re K.M.A.*,

--F--

Findings of Fact

Crafted by trial court, not recited – *In the Matter of Beer*,
Must be stated in order, not recitation of allegations – *In re Anderson*,

--G--

--H--

Hearsay

Business records exception – *In re Fisher*,

--I--

ICWA (Indian Child Welfare Act)

Claimant must present evidence showing applicability of statute - *In the Matter of Williams*,

Incarceration – *In re Clark*,

--J--

Judicial Notice – *In re Masters*,

Judicial Authority – expires at conclusion of term of office – *In re James Pittman*,

Jurisdiction - See this index “Personal Jurisdiction,” “Subject Matter Jurisdiction”

Juvenile Code

Effective date of the changes to juvenile code has no bearing on admissibility of evidence – *In the Matter of Calleja*,

Use for definitions in criminal proceedings – *State v. Carrilo*,

--L--

--M--

Miranda Warnings – Not applicable in civil proceedings – *In re Jakel Pittman*,

Motion to Set Aside Order – *State v. Flaskrud*,

--N--

Neglect – *In the Matter of America*, *In the Matter of Beer*, *In the Matter of Bethea*, *In the Matter of Irby*,
In the Matter of Quick,

Continuing until time of petition – *In re Murray*,

Notice and Service of Process – *In re Herndon*, *In the Matter of Kitchen*, *In re Poole*, *In re Rocha*, *In the Matter of Williams*,

--O--

Orders - See this index “Child custody order,” “Consent order,” “Criminal court orders,” “Domestic violence protective order,” “Permanency planning order,” “Protective order,” “Termination of Parental Rights: Order”

--P--

Paternity – *Jeffries v. Moore*,

Affirmation of paternity vs. DNA testing - *State v. Flaskrud*,

Personal Jurisdiction – *In the Matter of Williams*,

Presumption of Legitimacy - *Jeffries v. Moore*,

Putative Father - *Jeffries v. Moore*,

--R--

Reasonable Doubt is Evidentiary Standard under ICWA – *In the Matter of Williams*,

Reasonable Progress – *In re Pierce*,

Limited progress is not reasonable progress – *In the Matter of Quick*,

Recusal – *In re Masters*,

--S--

Service of Process – See “Notice and Service of Process”

Sexual abuse – *In re K.M.A.*,

Shaken Baby Syndrome

Introduction of simulation for illustrative purposes - *State v. Carrilo*,

Malice shown by acts – *State v. Smith*,

Spanish Speaking – inability to speak English is not a reason for parents to be held to a different standard – *In the Matter of Calleja*,

Standard of Appellate Review

Abuse of discretion – *In re Fisher, In the Matter of Thomas*,

Deference to trial court – *In re Fisher, In the Matter of Irby, In re Jakel Pittman*,

Lack of deference to trial court – *In the Matter of Smith*,

Stipulation – *In the Matter of B.A.*,

Subject Matter Jurisdiction – *In re Poole*,

--T--

Termination of Parental Rights

Adjudication and termination does not have to proceed upon the same grounds – *In the Matter of America*,

Continuance is not error – *In re Herndon*,

Despite complying with case plan – *In the Matter of Beer*,

Evidentiary Standard - clear, cogent and convincing

Must be stated in order – *In re Anderson*,

Findings of fact supported by evidence – *In the Matter of Smith*,

Grounds for terminating parental rights

Abandonment – *In re Mosley, In re Ramsey, In re Rocha*,

Abuse -

Failure to pay reasonable support – *In re Locklear, In the Matter of Matherly*,

Improvements to a habitable house not a substitute – *In the Matter of America*,

Evidence that parent had ability to pay is required – *In re Clark*,

Incapable of providing for child – *In re Clark, In re Hardesty, In re Locklear, In the Matter of Matherly*,

Neglect – *In the Matter of America, In the Matter of Beer, In the Matter of Bethea, In the Matter of Irby, In re Murray*,

Prior termination – *In the Matter of Beer*,

Putative father failed to establish paternity – *In the Matter of Matherly*,

Willfully leaving child in foster care – *In the Matter of Beer, In the Matter of Calleja, In the Matter of Matherly, In re Pierce*,

Timeframe of months under prior law – *In re Pierce*,

Order terminating parental rights

Evidentiary standard must be listed in order – *In re Anderson*,

Findings of fact

Crafted by trial court not merely recited from evidence presented – *In the Matter of Beer*,

Must state specific conditions not merely conclusive statements – *In re Locklear*,

Specific findings of fact must be listed in order – *In re Anderson*

Parent's refusal to comply with case plan – *In re Austen*,

Petition for termination of parental rights

Place a party on notice of issues – *In re Hardesty*,

Sufficiency – *In re Hardesty*,

Transcript – Inability to obtain transcript not a problem when transcript was not needed to address errors raised in the appeal – *In the Matter of Morris*,

--U--

UCCJEA – *In re Poole*,

--V--

Visitation

Court's authority cannot be delegated – *In the Matter of B.A.*,

Permission for visitation revoked and abandonment ground upheld – *In re Rocha*,

--W--

Willfulness –

Parent's age-related limitations on willfulness – *In the Matter of Matherly*,

Witnesses

Called by trial court after DSS rested its case – *In the Matter of Bethea*,

DSS worker's testimony as a lay witness was proper – *In re Masters*,

Expert witness not permitted to state a child is credible – *State v. O'Connor*,

--X--

--Y--

--Z--