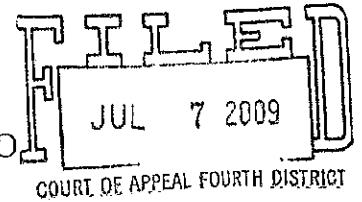


COURT OF APPEAL OF THE STATE OF CALIFORNIA

IN AND FOR THE

FOURTH APPELLATE DISTRICT, DIVISION TWO



MISCELLANEOUS ORDER 09-13

NO AUTOMATIC APPOINTMENT OF NON-APPEALING MINOR'S

COUNSEL

THE COURT:

This court's policy has been to automatically appoint counsel for non-appealing minors in all dependency appeals. However, because statewide policy has been to appoint minor's counsel only when the best interests of the child require the appointment as determined in each case, and because that policy has been institutionalized in a rule adopted two years ago (Cal. Rules of Court, rule 5.661, eff. July 1, 2007), the court has reconsidered and decided to adopt the rule as its policy.

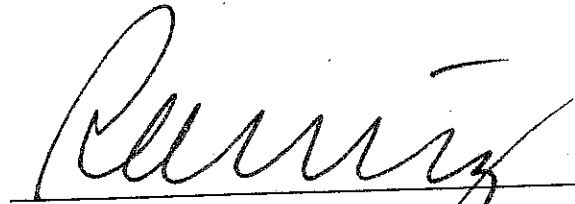
Therefore, effective for all dependency appeals in which minor's appellate counsel has not been appointed as of the date of this order, no counsel will be appointed for a non-appealing minor except when the court determines that, in the context of a particular appeal, the best interests of the minor require the appointment. (See Cal. Rules of Court, rule 5.661(c)(1) [minor's trial counsel or guardian ad litem to recommend appointment of

appellate counsel if minor's "best interests cannot be protected without the appointment"], (c)(2) [factors to be considered].)

Any party or counsel in trial or appellate proceedings may inform the court of any factors known to them that would indicate appointment of counsel to be in the minor's best interests. However, the rule places the burden especially on the minor's trial counsel to make a timely recommendation no more than 20 days after the filing of the appellant's opening brief. (Cal. Rules of Court, rule 5.661(d).) Because waiting until the filing of the appellant's opening brief would most likely result in the delay of the appeal, and because minor's trial counsel are mailed a copy of the notification of filing of notice of appeal (Cal. Rules of Court, rule 8.400(h)(1)(A) [notification mailed "to all attorneys of record"]), minor's trial counsel should consider submitting a request for appointment of appellate counsel and, if appropriate, submit the request as early in the appellate process as possible.

Therefore, the court REQUESTS all counsel who represent minors in juvenile court proceedings to consider appointment of appellate counsel and, if in the best interests of the minor, to recommend appointment on or before 10 days after the mailing of the notification of filing of notice of appeal.

The order is effective on the date of its filing and remains effective unless and until the order is vacated or superseded by an order of this court.



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Presiding Justice  
09-13