

Case Law Supporting Individualized Dispositions that Meet a Child’s Special Needs

In Re Tameka M., 534 A. 2d 782 (Pa. Super. 1987), aff’d., 580 A.2d 750 (Pa. 1990).

- Under section 6351 and 6301 of the Juvenile Act, the court has plenary jurisdiction to order a disposition that meets a child’s treatment needs even if the service ordered is not reimbursable.
- This case involved a child with emotional and behavioral health needs. The record demonstrated that attendance at the Montessori School met her treatment needs while other alternative options did not.
- The court stated that “[t]he Juvenile Act, as reinforced by our case law, was passed for the *benefit* of dependent children and is based on humanitarian ideals. Once the state intervenes in an individual's life there is the corresponding obligation to provide adequate treatment services to the person affected.” *Id.* at 755 (internal citations omitted).
- The court further explained that “[i]t has been proven that a child will not receive adequate treatment at one school (expenses to be reimbursed by the state) but will receive adequate treatment at a non-reimbursable Montessori school. To order Tameka M. to attend a school where she would not receive proper treatment would be to deprive her of due process and of her fundamental rights under the laws of Pennsylvania. Consideration of expense must give way under such circumstances particularly where the relevant governmental agency (here, CYS) has an expressed legal duty to provide and pay for such care.” *Id.* at 755.

In re Frederick F., 583 A. 2d 1248 (Pa. Super. 1990).

- Juvenile court has the authority to order the county department to provide appropriate community residential placement for a dependent youth with an intellectual disability. The funding source does not dictate what is the propose disposition under the Juvenile Act. *Id.* at 1251.
- Case involved a 16 year old dependent child with an intellectual disability and a mental health impairments. The record showed a clear consensus that community placement was appropriate and that institutionalization would be deleterious to the youth. *Id.* at 1251.
- Citing section 6351 of the Juvenile Act (disposition) and 6301 (purpose clause), the court stated that the child’s “mental health and retardation may not severed from his status as a dependent child juvenile for whom the legal custodian, [the child welfare agency] has ‘the right and duty to provide for the care, protection, training, and education, and the physical, mental, and moral welfare of the child subject to the conditions and limitation of the order [of the court]....’” *Id.* at 1253-54 (internal citations omitted)

Janet D. v. Carros, 362 A. 2d 1060 (Pa. Super. 1976).

- Under the Juvenile Act and state regulations, there is a right to treatment for youth under juvenile court jurisdiction. *Id.* at 1074.
- Case involved a 16 year old with special needs, including an intellectual disability and mental health impairments who was not placed in an appropriate placement or provided with appropriate treatment services.
- The court stated that “[w]ithout the individualized planning that we find to be an essential element of the ‘treatment’ required by the Juvenile Act, little more can be expected than the sort of custodial care that was afforded” the youth in this case. *Id.* at 1076
- The court, however, emphasized that dispositional orders must be specific and clear in order to be the subject of enforcement through contempt. *Id.* at 1078.