**I. Motions for Accelerated Review Reversals (2016-2021)**

A. Terminations

*In re J.S. and D.S*., Nos. 53520-3, 53530-1

**Due Process**

Parents argued the juvenile court violated their due process rights because the juvenile court issued its ruling several months after the termination trial took place. The court had given the parents time to engage in services and they failed to participate. It then considered the additional services in its findings of fact. This court found the trial court violated the parents’ due process rights because it did not make findings at the end of the termination trial and waited to consider evidence not presented at the trial in making its findings. Thus, this court remanded for additional termination proceedings.

*In re the Welfare of K.B.*, No.53292-1

**Services, Parenthood Status**

The legal father argued the Department did not offer him services to remedy his lack of a bond with the child and that it did not show he was an unfit parent. This court determined that legal fathers had the same rights to their children as biological fathers, so the Department’s arguments for why it did not offer services were not convincing. It reversed the termination order and remanded the case because paternity testing was not a service, the Department failed to provide the father with timely bonding services, and the Department failed to show he was an unfit parent as bonding was his only deficiency.

*In re the Welfare of M.A.A., A.M.A., and M.D.A*., Nos.53103-8 53106-2, 53113-5

**Services, Due Process, Out-of-State Parent**

Parents both appealed the order terminating their parental rights. Mother argued the juvenile court violated her due process rights, erred by finding the Department provided all necessary services, and erred by finding there is little likelihood she could parent in the near future. This court rejected her claims. Out-of-state father argued the Department did not provide him all necessary services and Department’s poor case management violated his due process rights. This court reversed his termination because the Department failed to provide father parenting education and bonding and attachment services. It did not reach the father’s due process argument.

*In re the Welfare of C.J.T. et al.*, Nos.52938-6, 52978-5, 52958-1, 52968-8, 52988-2, 52998-0 and 53008-2

**ICWA, Concession**

Mother appealed the juvenile court’s order terminating her parental rights and denying her petition for guardianship for one child. She argued the Department failed to provide all necessary services, failed provide notice to the tribe under the ICWA, and that she received ineffective assistance of counsel. Father also appealed as to three of the children and argued he was not given notice of his alleged parental deficiencies and the Department failed to prove all the elements of the termination, in addition to re-alleging mother’s arguments. Because the Department conceded that it did not give notice to the tribe, this court reversed the termination findings and remanded the case for another trial.

*In re the Welfare of D.C. and M.C.*, Nos.52423-6 and 52426-1

**Insufficient Findings, Concession**

Father argued that the juvenile court failed to make findings of fact sufficient to permit meaningful appellate review. The Department agreed. This court remanded this case to the juvenile court to enter findings of fact sufficient to permit appellate review.

*In re the Dependency of A.J., D.J., and A.J.*, Nos.52247-1, 52257-8, 52267-5

**Services, Intellectual Disability**

Intellectually disabled mother argued the Department failed to prove that it offered her all necessary services, that there was little likelihood her conditions would improve, and that she was unfit at the time of termination trial. This court found that while the Department took the mother to a single meeting with Developmental Disabilities Administration, that single meeting was insufficient to show the Department offered her all necessary services because there was no evidence that someone offered to help her fill out the forms to get the DDA services or helped her get services. Additionally, the mother’s service providers did not testify they had experience working with people with intellectual disabilities and some did not know she had those disabilities. Therefore, this court reversed the termination order.

*In re the Welfare of C.W.W. and D.J.S.*, Nos.52190-3 52390-6

**Incarcerated Parent, Services**

The Department conceded that the juvenile court did not consider the statutory incarcerated parent factors when making its termination findings and that the juvenile court was required to do so. This court reversed the order terminating parental rights because the trial court did not consider the incarcerated parent statute factors. But it rejected the mother’s argument she was not provided all necessary services because she refused to engage in the services she was offered. It also rejected her claims of ineffective assistance of counsel because she could not establish prejudice.

*In re the Welfare of L.M.*, No.51472-9

**Due Process, Notice of Parenting Deficiency**

Father argued (1) his due process rights were violated because the Department failed to provide adequate notice that his lack of bond with his child was a parenting deficiency; (2) the Department failed to prove it provided all necessary services; (3) the Department failed to identify a nexus between the father’s marijuana use and his inability to parent; and (4) the juvenile court prematurely considered the child’s best interests. This court reversed because the Department did not give the father sufficient notice that it would terminate his parental rights due to a lack of a bond between him and the child.

*In re the Welfare of S.M.L. and S.L.*, Nos.51309-9, 51320-0

**Jurisdiction**

Parents argued that the juvenile court lacked jurisdiction to enter the termination orders because they did not consent to a trial before a judge pro tempore. This court agreed, vacated the termination orders, and remanded the case.

*In re the Welfare of J.K.*, No.47587-1

**Siblings**

Parents both argued the termination order did not include a portion on sibling contact as was required by the statutes. This court remanded for an additional statement regarding the sibling relationships.

B. Dependencies

*In re the Welfare of A.R.K.*, No.55271-0

**Nonparent Services, Domestic Violence**

Mother argued that there was insufficient evidence to show that her child was a dependent child and the juvenile court erred by ordering services for her boyfriend who was a nonparent. This court found sufficient evidence showed the child was dependent, as the mother had a history of being in domestic violence relationships, did not have parenting skills, and did not have stable housing. This court then found the court did not have the statutory authority to order the boyfriend to participate in services at a dispositional hearing. Thus, it affirmed the dependency but reversed the dispositional order.

*In re the Welfare of S.E.M*., No. 55123-3

**Due Process, COVID Procedures, Services**

Mother argued that the social worker’s telephonic testimony violated her due process rights. She also argued that the juvenile court abused its discretion by ordering her to do mental health services because there was no evidence she had mental health issues. The Department conceded there was no evidence that mother had mental health issues. This court found that the allowing the social worker to testify by phone did not violate mother’s due process rights because there was a low risk of error. But it reversed the dispositional order because there was no evidence of the mother having a mental health issue.

*In re the Dependency of M.K.Y.*, No.54734-1

**Out of State Parent, “c” Dependency Standard**

Out-of-state dad argued his lack of a bond with his daughter was not enough to declare her dependent under a “c” dependency (no parent capable). This court found there was no evidence of a “danger of substantial damage to [her] psychological or physical development,” even if the situation was not ideal. Thus, it reversed the dependency order and remanded the case to the juvenile court.

*In re the Dependency of J.H*., No.52548-8

**Concession, Inadequate Fact finding**

Father argued substantial evidence did not support the juvenile court’s findings, the findings did not support the conclusion that the child was a dependent child under a “c” dependency and that the Department did not prove that out-of-home placement was necessary. The Department conceded the findings were inadequate. Therefore, this court reversed and remanded.

*In re the Dependency of N.M.C.***,** No.52033-8

**“b” Dependency, Insufficient Evidence**

Mother appealed an order of a “b” (abuse or neglect) and “c” dependency arguing insufficient evidence supported the findings. The Department argued the “b” dependency was valid because the child ingested methamphetamine while her parents were watching her. This court held that a child merely being injured while in the care of their parents is not sufficient to establish the child was abused and the juvenile court’s findings did not clearly support a neglect finding. Thus, this court reversed the finding of a “b” dependency, but it upheld the “c” dependency as there was substantial evidence the mother posed a danger to the child.

*In re the Dependency of D.L.K.M.*, No.52021-4

**Fact finding Hearing, Concession**

Father argued that the juvenile court erred in entering the order of dependency without having completed the fact-finding hearing. The Department agreed and asked this court to remand the order of dependency to the juvenile court to complete the fact-finding. This court remanded the case to finish the hearing.

*In re the Dependency of Q.P.*, No.51345-5

**Risk of Actual Harm, Visitation Limits**

Father appealed a dispositional order that denied him in-person visitation and argued that there was only evidence of a logistical issue with visitation, not evidence he would pose a risk of actual harm to the child. This court reversed the dispositional order and remanded the case because there were not findings that in-person visitation with the father would cause an actual risk of harm to the child.

*In re the Dependency of V.J.R.,* No.50947-4

**“b” Dependency, Substantial Evidence**

Non-parental custodians appealed the “b” and “c” dependency of their ward, arguing the ward was not competent to testify; the juvenile court erred in admitting her hearsay under the child hearsay exception; substantial evidence did not support finding the ward was dependent as to a “b” and “c” dependency; and they did not receive a fair trial. This court reversed the “b” dependency because it was not supported by substantial evidence. But this court rejected the custodians’ other arguments.

*In re the Welfare of J.D.*, No.50749-8

**Substantial Evidence, Due Process, Affective Assistance of Counsel, “b” Dependency**

Mother argued that: (1) the dependency findings were not supported by substantial evidence; (2) the juvenile court violated her due process rights and the appearance of fairness doctrine; (3) the juvenile court improperly denied her motion for reconsideration or for a new trial; and (4) she was denied effective assistance of counsel. This court found insufficient evidence established that the child was an abused child and vacated the “b” dependency. However, it held substantial evidence supported the juvenile court’s finding that the child was a dependent child under a “c” dependency and rejected the mother’s other claims.

*In re the Dependency of N.G. and M.G.*, Nos.49211-3 and 49221-1

**Insufficient evidence, Mootness**

Parents argued insufficient evidence supported the “c” dependency. This court found the appeal was not moot even though the children had been returned home because the father sought to join the nursing profession and both parents wanted to foster children. This court found that substantial evidence did not support many of the court’s findings. Thus, it reversed the dependency order.

*In re the Dependency of J.A.G*., No.48777-2

**Lack of Bond**

Father argued substantial evidence did not support the juvenile court’s finding that his daughter would suffer substantial psychological harm if she were placed with him and the lack of bond between them did not make him incapable. This court agreed that the record did not support either finding and reversed the order of dependency as to the father.

*In re the Interests of J.D.E.*, No.48495-1

**Concession, Placement, Services**

Mother appealed a dispositional order, arguing that the juvenile court erred in placing the child with someone without letting the mother present testimony on the issue of placement and in ordering her to undergo hair follicle testing. The Department conceded that the juvenile court erred in these respects. Therefore, this court remanded the case for further proceedings.

**II. Motions for Discretionary Review (2018-2021)**

A. Granted

*In re the Dependency of T.P.*, No.52928-9

**Continued Shelter Care Order, Outside the 72 Hour Window, Mootness**

Father argued the juvenile court erred by continuing the shelter care hearing beyond the statutorily required seventy-two hour window based on courtroom unavailability. Even though the father had agreed to shelter care, this court held the issue was not moot as it met the public interest exception to mootness. This court granted review because the statute required the shelter care hearing to take place within 72 hours without exception and the court did not make the necessary findings in the continued shelter care order for the hearing to be considered a shelter care proceeding. This court also found the order limited the father’s right to act by preventing him from seeing his child except as ordered by the juvenile court.

The panel issued a published decision in February 2020. *See Matter of Dependency of T.P.*, 12 Wn. App. 2d 538, 540, 458 P.3d 825, 826 (2020). It held that although the appeal is moot, it meet the substantial public interest exception. It also held the juvenile court violated the statute. However, it did not reverse because the parties had since entered into agreed shelter care and dependency orders.

*In re the Welfare of A.L.C.*, No.50904-1

**First Dependency Review Order, ICWA Active Efforts, Housing Services**

Father argued the juvenile court erred in finding the Department made active efforts as required by ICWA because it never helped him get housing and housing was an identified parental deficiency. This court granted review because there was no evidence in the record that the Department identified housing resources for the father or actively assisted him in utilizing and accessing housing services.

On review, the panel decided that the juvenile court improperly maintained the child’s placement in out-of-home care because the Department failed to provide active efforts for housing services. It remanded to the juvenile court to immediately either return the child or make the finding that returning the child will subject her to substantial and immediate danger or threat of such danger. *Matter of Welfare of A.L.C.*, 8 Wn. App. 2d 864, 877, 439 P.3d 694, 701 (2019)

*In re the Welfare of M.R.H*., No.55244-2

**Placement Change, Insufficient Procedures, Concession**

Father argued the court erred by not hearing his objections to child’s placement with her mother on the record. The Department conceded that the trial court erred by not hearing his objections. Thus, this court granted discretionary review, reversed the order amending placement, and remanded the case for further proceedings.

*In re the Welfare of E.R., C.M., and C.M.*, Nos.55239-6, 55242-6 and 55249-3

**Placement Change, Insufficient Record, Concession**

Mother sought discretionary review of the denial of her motion to amend placement. The Department conceded the record in the case did not provide meaningful review and the appropriate remedy was to reverse and remand. Thus, this court reversed and remanded.

B. Denied

*In re Welfare of T.T.B.*, No.54990-5

**Shelter Care Order, Risk of Harm**

Mother argued the court erred by finding the child had no parent available because her decisions were reasonable in light of COVID 19 and other factors. This court found the juvenile court did not abuse its discretion because the Department presented reasonable cause to believe she presented a serious threat of substantial harm to her son.

*In re the Welfare of T.S. and J.P.S.*, Nos.53568-8 and 53578-5

**Shelter Care Order, Inadequate Findings**

The mother argued the juvenile court did not make adequate findings regarding reasonable efforts, did not make other findings explicitly in its written statements, and violated her due process rights. This court denied discretionary review because the juvenile court’s oral statements supported all the elements of the statute. Further, the mother made inconsistent statements to the Department and did not explain how additional services would have prevented removal, so this court held her due process rights were not violated.

*In re the Welfare of A.B.*, No.53795-8

**Shelter Care Order, Reasonable Efforts, Moot**

Mother argued that the Department did not make reasonable efforts to keep the child in the home prior to removal. This court denied discretionary review because the case was moot as the mother had already agreed to shelter care and the child was on a trial return home.

*In re the Welfare of O.H.M.,* No. 52698-1

**Shelter Care Order, Risk of Harm**

Mother argued insufficient evidence showed the child was in sufficient danger of harm if she remained in the mother’s home. This court denied review because it determined the record showed the mother had easily accepted an implausible story about an injury that her boyfriend gave the child, the mother had inconsistent stories about how the injury happened when she sought medical help, and the mother was not willing to admit someone had abused her daughter. It determined this was sufficient to order out of home placement.

*In re the Welfare of B.S.*, No. 55387-2

**Continue Shelter Care, Active Efforts, Moot**

Mother argued the juvenile court erred by continuing the child’s out of home placement because the court found the Department did not make active efforts and there was no exception to the active efforts requirement. This court denied review because the issue was moot since the child was returned to his father’s care and a recent Supreme Court decision already showed there was an exception to the active efforts requirement.

*In re the Welfare of I.R.*, No.54652-3

**Continued Shelter Care; Due Process, Moot**

Father argued the juvenile court violated his “right to notice and a hearing guaranteed by the 14th Amendment of the U.S. Constitution and also [violated] RCW 13.34.065(7)(a).” This court denied his motion for review because the issue was moot as the child had already been found dependent.

*In re the Welfare of E.J.L.J. and K.S.T.J*.,Nos.53840-7 53850-4

**Order Suspending Visitation, Risk of Harm**

Mother argued the juvenile court erred because the Department did not prove visitation posed a concrete risk to her children. Even though visitation had been reinstated, this court determined the issue was not moot as it involved an issue of substantial public interest. However, the court denied review because the mother’s behavior was uncontrollable, so the Department did show a risk of harm. Further, this court held the mother could not show the order substantially altered the status quo or limited her freedom to act (effect requirements under RAP 2.3(b)(2)).

*In re the Dependency of T.T.,* No.53597-1

**Order Suspending Visitation, Risk of Harm, Moot**

Mother argued the juvenile court did not have evidence she posed a danger to her son. This court denied review because the issue was moot, as the mother’s visitation had been reinstated

*In re the Welfare of S.G. and K.M.G.*, Nos. 54918-2 54928-0

**In-person Visitation, Moot, Concrete Risk**

Parents argued the mere evidence of a criminal investigation against them without more was not enough to show a concrete risk of harm if they visited their children in person. This court denied the motion as moot because the children had been returned to their parents care.

*In re the Welfare of J.P.,* No.53468-1

**Order for Third Party Supervision of Visitation**

Father sought discretionary review of juvenile court’s order requiring (1) his visitation with the child to be supervised by a third party other than the child’s grandmother, and (2) the child’s contact with her grandfather to be supervised by her grandmother, his wife. This court found that there were ongoing concerns with the father abusing the child and it differentiated a wife reporting her husband abused a child from a mother reporting her son abused a child. There were also no reports the grandfather abused the child, merely an old conviction. This court also found that the grandfather had no right to visit with the child, so there was no error in ordering their contact be supervised.

*In re the Welfare of K.L.O.,* No. 55760-6

**Placement Change, Legal Parent**

Mother argued the juvenile court abused its discretion by moving the child from relative placement to foster care because she claimed the juvenile court could not just rely on the fact the relative did not like the child’s legal father. This court found the juvenile court did not abuse its discretion because there was ample evidence in the record that the relative interfered with the legal father’s relationship with the child.

*In re the Welfare of S.D.,* No. 55474-7

**Placement Change, Safety**

Father argued the juvenile court probably erred when it amended the child’s placement to foster care and determined the child was not safe in the relative caregiver’s home. This court denied discretionary review as it found the court did not probably err because the relative had allowed unapproved people to have unsupervised contact with the child, had allowed unapproved overnights, and had lied about COVID symptoms. This court also found that there was no evidence that other family members were viable placement options.

*In re the welfare of B.C.M.,* No. 55266-3

**Placement Change, RAP 2.3(b) Effects**

Father argued that the juvenile court erred by refusing to amend placement to his home based on the child’s preferences to remain out of the home. This court denied the motion because the father minimized the child’s concerns about the father’s home, some of which included neglect and abuse allegations. Further, the father could not show how the order substantially altered the status quo or limited his freedom to act (effect prong of RAP 2.3(b)(2)).

*In re the Welfare of A.D.D., A.D.S., and A.J.S.,* No.54835-6, 54831-3, 54841-1

**Placement Change, Safety Issues**

Father argued the juvenile court abused its discretion by amending placement to the mother because the mother had not remedied outstanding safety concerns. This court found the juvenile court did not abuse its discretion because the evidence before the court showed there were no outstanding safety issues.

*In re the Dependency of S.S. and E.R.,*No. 53945-4 53951-9

**Placement Change, Statutory Preferences**

Mother argued the juvenile court erred because its denial of her motion to amend placement her father went against the statutory preferences. This court found substantial evidence showed that placement with the mother’s parents was not in the children’s best interests as the parents did not have a relationship with the children, did not understand one of the child’s behavioral issues, and mistakenly believed that child was on medication.

*In re the Welfare of K.M.S.*, No.53810-5

**Placement Change, Best Interests**

Mother argued the juvenile court erred in denying her motion to amend placement because the juvenile court had to follow the parents’ wishes, the proposed placement was a suitable caregiver, and placement would not jeopardize the child’s health safety or wellness. This court denied review because it was in the child’s best interest to remain in his placement and a change in placement would have negative emotional and psychological effects on him.

*In re the Welfare of L.A.*, No.53500-9

**Placement Change, Legal Parent**

Biological mother argued that the juvenile court abused its discretion by placing the child with her legal mother because the order did not comply with the statutory requirements of the Uniform Parentage Act (UPA). This court held that the juvenile court was not in a position to determine a parentage action and, under the UPA and the dependency statutes, the legal mother was the preferred placement.

*In re the Welfare of A.M. and D.R.,* Nos. 52925-4, 52931-9

**Placement Change, Best Interests, Moot, Home Study Incomplete**

Mother argued the juvenile court abused its discretion in denying her motion to amend placement from foster care to relative care because she argue the grandparents did not need to complete a home study prior to placement, placement with the grandparents was in the child’s best interest, and the juvenile court erred by not granting the mother visitation at her parents’ home. This court denied review because the issue was moot as the child had been placed with her grandparents.

*In re the Dependency of Z.A.B.*, Nos.53240-9, 53250-6

**Motion to Reclassify Foster Family, Placement Change, Best Interests**

The child argued that the superior court could overrule the Department’s decision that someone was not suitable and that the court should have held a best interests hearing before removing the child from her foster placement. This court denied discretionary review because it found the statute gave the Department the power to decide if a family was suitable. Further, the Department’s determination that the foster family was no longer suitable was legitimate and that the juvenile court did not need to hold a best interests hearing before removing the child from the foster home.

*In re the Welfare of J.J.*, No.54168-8

**Permanency Planning Order, Active Efforts (ICWA)**

Mother alleged the juvenile court erred by modifying the permanency plan to a primary plan of guardianship because the Department failed to satisfy the active efforts requirements under ICWA/WICWA. This court denied review because the Department made active efforts regarding substance abuse and substance abuse was the mother’s primary issue.

*In re the Dependency of E.B.D. and J.J.*D, Nos. 53275-1, 53281-6

**Permanency Planning Order, RAP 2.3(b) Effects**

Father argued the court abused its discretion in ordering a sole permanent plan of adoption because there was not sufficient evidence that a proffered guardian was in denial about his abuse of the children. This court concluded the father could not show the decision substantially altered the status quo or limited his freedom to act (effect prong of RAP 2.3(b)(2)) because the plan could be changed at a future hearing.

*In re the Welfare of L.A.*, No. 54080-1

**Order Granting Concurrent Jurisdiction, Legal Parent**

Biological mother argued the court abused its discretion by granting concurrent jurisdiction to adjudicate dependency in family court because the legal mother’s status was disputed, the oral motion violated her due process rights, and the order violated the local rules as the Department reargued the same motion that it made earlier. This court denied review because it found that granting concurrent jurisdiction was within the court’s discretion. Further, this court found the mother was not entitled to raise the due process violation when she did not raise the objection in the juvenile court, the Department’s previous motion for concurrent jurisdiction was explicitly not about child custody, and the biological mother could not show the order altered the status quo (as required under RAP 2.3(b)(2)).

*In re the Dependency of E.J.L.J. and K.S.T.J.*, Nos. 53035-0, 53045-7

**Motion for Vaccination, Right to Child**

Mother argued the court abused its discretion because she retained her fundamental right to care for her children, and she complied with the law by objecting to vaccinations on religious and medical grounds. This court denied review because RCW 13.34.315 allows the Department to provide routine medical care to dependent children.

*In re the Welfare of H.S. and K.S*., Nos. 53407-0, 53424-0

**Request for Unsupervised Overnights and Ordering Anger Management, Services**

Father argued the court abused its discretion by denying his motion for unsupervised visits because he was participating in services and his supervised visits with one child were going well. This court denied discretionary review because it found there was no evidence that the father was making progress in correcting his parental deficiencies.

*In re the Dependency of D.L.,* No.53449-5

**Motion for a Trial Return Home, Background Check Incomplete, Due Process**

Mother argued the juvenile court erred because RCW 13.34.138(2)(b), which requires a background check before returning a child home, does not apply to a parent in the dependency process. She also argued the juvenile court violated her due process rights by requiring a background check when she is fit to regain custody of her child. This court held a parent falls under the plan language of the statute and thus applied to her. It also held that she could not raise her due process claim for the first time on appeal and the statute did not violate her due process rights.

*In re the Welfare of J.Z.*, No. 54716-3

**Review Hearing Order; Jurisdiction**

Mother argued the juvenile court did not have jurisdiction to enter the finding of no progress at a review hearing because the child ultimately was never found dependent as to his father in a “c” dependency. She also argued her no progress finding was not supported by substantial evidence. Even though the dependency had been dismissed, this court held the case was not moot because the mother was only granted supervised visitation with the child in a parenting action. It denied review because it found the court had jurisdiction even when the child was dependent under a “c” dependency as to only one parent (while the other parent was in extended shelter care status) and substantial evidence supported the no progress finding.

*In re the Dependency of J.T.E.,* No. 55540-9

**Motion to Join Necessary Party, Civil Rules**

Father argued the juvenile court erred by denying his motion to join the stepmother as a necessary party because he could not be given complete relief unless she was joined, she could incriminate herself when testifying and thus needed an attorney, and she had an interest in visiting the child. This court denied review because the stepmother did not meet the definition of a parent and complete relief could be granted, as the court would focus on the father’s issues, not the abuse allegations against the stepmother.

*In re the Welfare of N.G*., No. 55386-4

**Motion to intervene, Civil Rules, RAP 2.3(b)(2)**

Mother argued the juvenile court erred by allowing the child’s former stepfather to intervene prior to the outcome of his *de facto* parentage case because the juvenile court did not consider whether the stepfather’s rights conflicted with hers. This court agreed that the juvenile court probably erred by not considering whether their rights conflicted. This court denied review because the mother could not show the order substantially altered the status quo or limited her freedom to act (effects prong of RAP 2.3(b)(2)).