

ETHICS UNDER PRESSURE

Scenarios in
Juvenile Court

HYPOTHETICAL 1

Lawyers and DHS representatives gather in the hallway at court before a TPR hearing and talk about the case. The social worker explains to the mother's attorney that she just received an email from the lab indicating the mother's most recent drug test was positive for methamphetamine. The mother is sitting with a friend on a bench nearby, and the lawyer turns to the mother to explain what the lawyer has just learned. The mother is upset and denies any illegal drug use. Her friend backs her up. Then the client explains, rather loudly, that she relapsed on alcohol last week, but she did not use methamphetamine. The social worker hears the admission about the alcohol use and tells the mother that a relapse on alcohol is just as bad from a treatment point of view, and that the Judge is not going to be happy.

What are the ethical issues raised by this hypothetical? What are actions the attorney could take to address/avoid them?

HYPOTHETICAL 2

- You meet your client in the hallway just before the start of a CINA Permanency Hearing. You give her the good news that a UA done just before the hearing came back negative, which really helps her case. She gives you a smile and says “I have no idea how it came back clean, I relapsed last week.” She says she was worried she was going to have to admit it, but now that the UA came back negative, she does not have to. Assume she is going to be called as a witness. What conversation do you have with her before the hearing about this disclosure and her potential testimony?
- Assume, when the state calls her as a witness, she testifies she “has been sober for the past 6 months.” What is your ethical obligation?
- Now assume you ask her why she believes she is ready to resume custody of her kids at this stage of the case, and she testifies “because I have not touched any illegal drugs in the past 6 months.” What ethical obligation do you have?

HYPOTHETICAL 3

You are the Father's attorney in a CINA Removal Hearing. The child is 14, but not present. The Child's GAL, who is the child's attorney as well, supports the state's position that the child remain in out of home placement. The GAL also supports the state's position that the child should not have contact with the father, who is incarcerated. The GAL reports he was appointed the day before the hearing, and was not able to reach the child or foster parent before the hearing. The GAL has also not spoken with the father, other than a short conversation in the hallway.

- How should the father's attorney address these issues?
- Is there any record the GAL should make?
- What should a Judge do when confronted with this scenario?