

Family Court judge orders birth control in neglect case

By Steven Getman

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A New York State Judge has ordered a woman not to get pregnant again until after she regains custody of her youngest child.

In Matter of Steven D. (Brandy F.), Monroe County Family Court Judge Patricia E. Gallaher made the order after finding the respondent was "a drug-addicted admitted prostitute, mother of 4 children, none of whom are in her care [and] having removed the fourth child from the mother who does not know who the father is." The judge also discussed the mother's "history of drug usage, her failure to get substance abuse and mental health treatment as previously ordered, by her failure to have suitable housing for herself and the newborn infant, and ...the failure to plan for the baby and have baby supplies."

Noting, "(s)ociety and its problems are changing, especially with the incredible rise in the use of heroin, and this court needs to adjust in response, instead of doing the same tired routine which does not solve the obvious problems in so many cases," Gallaher held:

To that end, this Court is directing DHS to include provisions in the final dispositional order that (1) requires DHS to comply with SSL § 131-e, (2)directs respondent to listen to the birth control counseling the county is required to provide pursuant to Social Services Law, section 131-e, (3) directs respondent to see her ob-gyn doctor for whatever confidential advice that doctor may give her regarding birth control, sexually transmitted diseases, and anything else, (4) directs respondent see her regular medical doctor regarding her health generally, including her addiction, and (5) directs respondent to take whatever steps she chooses (at no financial cost to her but at the expense of the Department if there is any expense) to prevent her from conceiving another child, fathered by anyone, until she gets baby Steven safely out of foster care and back in her care.

In the instant case, it is the intent of this Court to require, not that the mother refrain from ever getting pregnant in the future, but to put in place a way for this young woman to get the help she needs before she gets pregnant again, to put in place safeguards and knowledge for the mother to avoid pregnancy, and to enable some measure of compliance, so that if this mother does again become pregnant, any future unborn fetus may get the significant intervention necessary to ensure the positive health and development of the unborn child. There has been ample evidence admitted in this case to show the pattern and history of drug abuse by this mother, the pattern and history of giving birth to drug-addicted infants, and the pattern and history displayed by this mother who essentially leaves the young drug-addicted infants with others who can care for the babies, while never really engaging in services to help herself, despite the repeated and numerous offerings. An intervention in this cycle is needed here, and that is what this Court is doing.

In addition, Gallaher cited the constitutional issues raised by her decision and urged the Appellate Courts to review same.

The complete decision can be found [here](#):

<http://stevengetman.blogspot.com/2017/01/family-court-judge-orders-birth-control.html>

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