

No. 06-CJ-2380

STATE OF LOUISIANA IN THE INTEREST OF R.A.

ON WRIT OF CERTIORARI TO THE COURT OF APPEAL  
FIRST CIRCUIT, PARISH OF EAST BATON ROUGE

**PER CURIAM**

Writ granted in 06-CJ-2380. We granted certiorari to consider the legal issue of whether the juvenile court exceeded its statutory authority when it ordered a child adjudicated in need of care in the custody of the Department of Social Services (“The Department”), Office of Community Services (“OCS”), be placed in a family setting and prohibited placement of the child in a group home setting.

On August 24, 2006, the juvenile court held a review hearing pursuant to La. Ch. C. art. 692 to review the case plan prepared by OCS for the child in need of care, R.A., who was living in a foster home, an emergency placement. OCS asserted R.A. needed to be placed in a group home because of his behavioral problems and presented to the court the only home that would accept R.A. at the time was Hope Haven. Based on the evidence presented that R.A. was improving significantly with his placement in the foster home, the juvenile court judge rejected the plan to place R.A. in Hope Haven and specifically ordered R.A. be placed in a family setting if his current foster home placement could not be made a permanent one. The judgment at issue stated, “The court ordered the Office of Community Services to place [R.A.] in a family setting if his current placement changes. Further, the court disapproves any group home placement, specifically: Hope Haven.”

In application to this court, OCS asserts the juvenile court exceeded its

statutory authority in ordering R.A. be placed in a family setting and prohibiting placement in a group home. We agree.

Article 672(A) of the Louisiana Children's Code provides the Department with sole authority over the specific placements of children assigned to its custody. Once a child enters the Department's custody, the Department must develop a case plan detailing its efforts toward achieving a permanent placement for the child. La. Ch.C. art. 673. The case plan "shall be designed to achieve placement in the least restrictive, most family-like, and most appropriate setting available, and in close proximity to the parents' homes, consistent with the best interest and special needs of the child. The health and safety of the child shall be the paramount concern in the development of the case plan." La. Ch.C. art. 675(A). These statutes, however, must be read in conjunction with the other statutes that govern child in need of care proceedings. Article 692 provides for periodic review hearings by the court. At the conclusion of the case review hearing, the court may "[a]pprove the plan as consistent with the health and safety of the child and order compliance by all parties," La. Ch.C. art. 700(A)(1), or "[f]ind that the case plan is not appropriate, in whole or in part, based on the evidence presented at the contradictory hearing and order the department to revise the case plan accordingly." La. Ch.C. art. 700(B). In approving or rejecting the case plan, the court cannot revise the plan itself or order specific placements of children placed in the Department's custody. *State ex rel. L.C.B.*, 01-2441, p. 10 (La. 1/15/02), 805 So2d 159, 164-65. Thus, while the juvenile court retains the ultimate authority over a child's placement, the Department has the sole authority to determine the specific placements of children in its custody. *Id.* at pp. 9-10, 805 So.2d at 164.

In the instant case, the juvenile court did more than merely reject and order revision of the Department's plan. The court therefore exceeded its statutory

authority when it prohibited placement in a group home and ordered placement specifically in a family setting. The Department has the sole authority to determine the particular placement setting for the child. The court may only accept or reject and order revision of the case plan; it may not order specific placements. Accordingly, to the extent the judgment impinges on the authority given OCS to select a specific placement for R.A., the judgment is vacated. The writ is otherwise denied.

**JUDGMENT VACATED IN PART.**