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Gilliland v Lill, et al., 1 CA-CV 17-0337 (2018)

Arizona Department of Child Safety case managers are entitled to qualified immunity and cannot be sued for money damages, unless the conduct alleged violates clearly established law, and a reasonable case manager would have understood his conduct violated the right.

In April 2011, due to mental illness Jennifer Gilliland (“Gilliland”) erroneously believed her then fourteen-year-old daughter, M.G., was not actually her daughter. M.G. told her teacher and the teacher reported it to the Department of Child Safety (“Department”). The Department petitioned for dependency alleging neglect due to mental health and failure to provide proper supervision and care. The Department placed M.G. with her teacher and his spouse as foster parents and assigned case manager Carlee Lill (“Lill”), during the dependency proceedings.

In May 2012, the juvenile court denied the Guardian Ad Litem’s (“GAL”) motion to terminate Gilliland’s parental rights and ordered a family reunification case plan. Through Lill, the Department provided services intended to help Gilliland and M.G. mend their relationship. In June 2013, Lill filed a report asserting M.G.’s therapist and GAL were thwarting reunification efforts by discouraging M.G.’s participation in visitation. The report also noted the foster parents were interfering with family reunification and added they wanted to adopt M.G.

Family therapy was unsuccessful and in December 2013, the juvenile court changed the case plan to long-term foster care. In May 2014, the family therapy service ended because M.G. stated that she was not ready for increased communication with Gilliland. In 2015, the juvenile court dismissed the dependency effective the day before M.G.’s 18th birthday.

In March 2016, Gilliland brought a 42 U.S.C. § 1983 claim against Lill, alleging Lill violated Gilliland’s constitutional right to the care, custody, and companionship of M.G. Lill moved to dismiss based on qualified immunity. The trial court agreed Lill was entitled to qualified immunity because no reasonable case manager would have known Lill’s alleged conduct violated any clearly established constitutional right of a parent during a dependency proceeding. The trial court agreed, extended qualified immunity to Lill, and dismissed Gilliland’s complaint. Gilliland then appealed.

The Arizona Court of Appeals affirmed Lill’s entitlement to qualified immunity because her conduct violated no clearly established law. The court acknowledged the foster parents’ interference with the reunification case plan but held the interference was not attributable to Lill. Gilliland did not present evidence of any specific violations of her clearly established rights by Lill or the Department. Instead, Lill and the Department diligently complied with the case plan from the time the initiation of dependency proceeding until its termination.

For these reasons, the Court of Appeals dismissed Gilliland’s appeal and affirmed the trial court’s order.