

Master in Family Court in Anchorage Erred

The Alaska Supreme Court in an opinion released today held that the master in family court in Anchorage erred when he denied a juvenile the services of an attorney of her choice in a non-delinquency matter.

But in a similar consolidated matter, the supreme court affirmed the actions of the family court matter in denying representation by a private attorney.

The action of the family court master which was held in error stemmed from a proceeding involving a 14 year old girl who had left home seeking police aid in finding a foster home. She was placed in an emergency shelter, but left and returned again later.

She was later interviewed by a family intake officer and released to her parents. She refused to return home and on her parents' request was placed in detention. The family court intake officer then filed a petition alleging she was a child in need of supervision.

At the subsequent hearing an Anchorage attorney appeared claiming the girl had requested his appearance.

The attorney for the girl's parents objected, claiming the parents should choose the child's attorney since they would be liable for attorney's fees and that

a juvenile did not have a right to an attorney in a non-delinquency proceeding.

The family court master maintained that the girl had a right to counsel, but that she should not be compelled to accept an attorney retained by her parents if she believed her interests were divergent from theirs.

Because of the financial liability, he said, the parents should at least be entitled to a choice in selecting an attorney to be appointed by the court.

The family court master then excused the attorney the girl had contacted.

The supreme court, in an opinion written by Justice Roger Connor, held that in cases where the interests of the child and the

parents are hostile, choice of the child's attorney by the parents might create an irreconcilable conflict of interest.

The supreme court stated that the child may retain an attorney of his choice, or in the alternative, ask the court to appoint an attorney. But, if the child has retained counsel, the court must respect the child's choice.

In reaching this conclusion, the supreme court also held that the rules of court require that when an juvenile matter has reached the formal hearing stage, a child's counsel is required to be present.

In the second matter involving the same attorney, the supreme court upheld the family court master's decision excluding the attorney from a dependency

hearing.

In that case, the supreme court said the attorney showed no direct interest in the case which would allow him to represent the juvenile.
