

No. 30971 *In Re: Kyiah P. and Joseph P.*

FILED

July 9, 2003

**RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA**

Starcher, C. J., concurring:

I concur in the Court's opinion. I write separately to comment on the circuit judge's decision not to grant the DHHR a second continuance.

Courts are busy forums, in which litigants who fail to bring evidence forward in a timely fashion risk having their cases dismissed. If there is no risk of sanctions for delay, there is a correlative tendency for no one to take deadlines seriously. And especially in priority child abuse cases, the court is on a strict timetable.

In the instant case, the DHHR should have known what the Virginia authorities' position was well before the August 28 hearing, and should have asked for second continuance. Just "showing up" and saying "Sorry, Judge, we're not ready" is not acceptable. For this reason, the circuit court's action was, it appears, entirely understandable.