OPD OFFICE OF THE PARENT DEFENDER

TUESDAY'S TIP # 17 - RELINQUISHMENT

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Situation: The case plan has been changed to adoption. Your client, the parent, is faced with a choice: have their parental rights potentially terminated or sign a relinquishment of their parental rights.

The Problem: The social worker starts discussing relinquishments with your client. Sometimes, the social worker will make statements to the parent that are not reflective of the parent's rights post-relinquishment. The parent signs the relinquishment without counsel being present and counsel is notified after the fact.

Law: The natural parent retains no rights to visit the child or veto a name change when a child is adopted. N.C.G.S. § 48-1-106; N.C.G.S. § 48-3-610 (agreements for post-adoption contact are not enforceable); N.C.G.S. § 48-3-705; *Quets v. Needham*, 198 N.C. App. 241, 256, 682 S.E.2d 214, 223 (2009) (The birth mother "lost her right to seek custody of or visitation with the children when she consented to their adoption."). Because of the stark and lifelong implications of relinquishment, when the parent has counsel pursuant to a juvenile proceeding: 1) counsel must be notified as to the specific place, date and time of the execution of the relinquishment, and 2) the parent must be informed of the right to obtain advice of counsel before the relinquishment may be executed. N.C.G.S. § 7B-909.1.

A termination of parental rights can be used in proceedings with a future-born child. N.C.G.S. § 7B-901(c)(2), -1111(a)(9).

Action Steps:

1. Be sure your client understands his/her right to counsel should DSS request a relinquishment down the road.
2. Explain to your client that any suggestion of post-adoption contact or veto power for a name change or any other statements, have no legal basis; the parent will be strictly relying on the good will of the prospective adoptive parent.
3. Notify DSS that you know your client has the right to counsel and that you must be notified if DSS tries to push your client towards relinquishment.
4. Address with your client the benefits and drawbacks of signing a relinquishment. For example, many agencies will not accept a specific relinquishment (for a specific person to adopt). Signing a relinquishment does not extinguish the right of the agency to collect child support or to waive past due sums.
5. If your client is of child-bearing age, discuss the fact that a prior termination of parental rights can result in the automatic elimination of reunification efforts for a future-born child and is also potentially a ground to terminate rights on that child.

Conclusion:

Be the voice that helps your client make an informed decision on whether to relinquish parental rights or go through a contested termination hearing.