

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE



DIVISION ONE
FILED: 09/16/2010
RUTH WILLINGHAM,
ACTING CLERK
BY: GH

ARIZONA DEPARTMENT OF ECONOMIC) 1 CA-SA 10-0173
SECURITY,)
)
) DEPARTMENT E
)
) Petitioner,)
)
) Maricopa County
v.) Superior Court
) No. JS11534
)
)
)
THE HONORABLE BETHANY G. HICKS,)
Judge of the SUPERIOR COURT OF)
THE STATE OF ARIZONA, in and for) D E C I S I O N
the County of MARICOPA,) O R D E R
)
)
) Respondent Judge,)
)
)
CRYSTALLY L.,)
)
)
) Real Party in Interest.)
_____)

This special action came on regularly for conference this 14th day of September, 2010, before Presiding Judge Philip Hall and Judges Sheldon H. Weisberg and Peter B. Swann. No response was filed.

Because there is no adequate remedy by appeal,

IT IS ORDERED accepting jurisdiction of this special action. *Blake v. Schwartz*, 202 Ariz. 120, 122, ¶ 7, 42 P.3d 6, 8 (App. 2002); Ariz. R. Spec. Act. 1(a).

Petitioner challenges the trial court's order substituting it as the petitioner in a private severance action. The severance action was filed by Crystally L., but service of process had not been obtained on either natural parent at the time of the substitution order.

Petitioner argues that the trial court's order violated the separation of powers doctrine established by the Arizona Constitution. Ariz. Const., art. III. We disagree. This court has recognized the inherent authority, without specific statutory authorization, to enter similar appropriate orders necessary to protect the rights of a juvenile. See *Ariz. Dep't of Econ. Sec. v. Superior Court (Estay)*, 178 Ariz. 236, 240, 871 P.2d 1172, 1176 (App. 1994). The trial court's substitution order did not violate the separation of powers doctrine.

Petitioner also asserts that Crystally did not allege that the minor children had been abandoned by their parents. However, Crystally did make that allegation in ¶7 of her termination petition.

Notwithstanding Petitioner's unhelpful arguments, the trial court's order was premature. Rather than ordering a report from Petitioner after service of process had been completed upon the natural parents, the substitution order shifted the responsibility to proceed with the severance action to Petitioner

without the benefit of a sufficient factual basis before it.
Therefore,

IT IS ORDERED accepting jurisdiction and vacating the trial court's July 2, 2010 order substituting Petitioner, Arizona Department of Economic Security, in as petitioner in Crystally's private severance action.

/s/ _____
SHELDON H. WEISBERG, Judge