



ELECTRONICALLY FILED
6/10/2020 11:30 AM
41-JU-2010-000295.02
CIRCUIT COURT OF
LAUDERDALE COUNTY, ALABAMA
MISSY HOMAN, CLERK

IN THE JUVENILE COURT OF LAUDERDALE COUNTY, ALABAMA

IN THE MATTER OF

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) Case No.: JU-2010-000295.02

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ORDER

IT IS SO ORDERED that the Amended Summons, Amended Petition, all court-issued documents, and this ORDER shall be published in Global Legal Notices, a legal notice publication of general circulation in Guatemala, for a period of four (4) consecutive weeks and that Proof of Publication be filed with this Court no later than thirty (30) days after completion of the publication.

DONE this 10th day of June, 2020.

/s/ BENJAMIN R GRAVES
JUVENILE JUDGE

**IN THE CIRCUIT COURT OF LAUDERDALE COUNTY, ALABAMA
JUVENILE DIVISION**

IN RE: THE LATTER OF
M ___ C ___ Y
A minor child

* Case No. JU-2010-000295.02
*
* APPLICATION FOR
* ORDER FOR SERVICE
* BY PUBLICATION;
* POINTS & AUTHORITIES;
* ORDER FOR SERVICE
* BY PUBLICATION
*
*

COMES NOW THE PETITIONER, LAUDERDALE COUNTY DEPARTMENT OF HUMAN RESOURCES, who submits the Application for Order for Service by Publication.

FACTS OF THE CASE

This case is related to an Amended Petition for Termination of Parental Rights (TPR) which was filed in the Circuit Court of Lauderdale County, Juvenile Division. Petitioner has been unable to serve the Respondents, Olivia Yaxcal Poou (“Poou”) and Otilio Coy Bol (“Bol”) after an exhaustive effort. Service was attempted, without success, as described in the Declaration of Due Diligent Search (Exhibit “A”).

REQUEST

Petitioner hereby requests that the Court issue an Order for Service by Publication for a minimum period of once a week for four (4) consecutive weeks in the online legal notice publication, *Global Legal Notices®*, a website of general circulation in Guatemala, which specializes in service by publication and which provides numerous benefits over traditional print newspapers. Their publication policy is to publish the Order, any notices, and all court-issued

documents continuously for a period of four (4) consecutive weeks, which exceeds statutory requirements.

ARGUMENT

Petitioner has attempted unsuccessfully to serve the Respondents utilizing traditional service of process methods. However, Respondents have made themselves unavailable for service. There is no known physical address for the Respondents.

A thorough and careful search for the home address for the Respondents was conducted and submits to this court the Declaration of Due Diligence Search attached as Exhibit "A", showing the steps taken to locate the Respondents.

The only available alternative method of service is service by publication. However, newspapers in Guatemala do not allow for publication of legal notices due to the lack of a law providing such method. The only known method for service by publication in Guatemala is through *Global Legal Notices*® which provides a more thorough method to give actual notice to the Respondent, as described on their legal notice website at www.GlobalLegalNotices.com. (see Exhibit "B").

This method allows for a greater opportunity to give actual notice to the Respondent than service by publication in a traditional newspaper. It provides publication of the Court Order, plus the entire set of Court-issued documents. Further, the publication period exceeds the customary once a week for four (4) consecutive weeks by continually publishing the documents for an indefinite period, or as directed by the Court. In addition, a Google search by the Respondent's name and country will typically appear on page one of the Google search after approximately 5 days, thus, providing a greater opportunity to give actual notice to the Respondent.

POINTS AND AUTHORITIES

The U.S. Supreme Court in *Mullane v. Central Hanover Trust & Bank Co.*, 22 ILL.339, U.S. 306, 70 S. Ct. 652, 94 L. Ed. 865 (1950), found that, “*It is a logical step forward in the evolution of civil procedure that the use of new technologies in common communication be utilized.*”

U.S. courts have reasoned that service by publication on foreign defendants is permitted under Federal Rules of Civil Procedure 4(F)(3). Rule 4 allows service of process on a foreign individual:

- (1) by internationally agreed upon means of service reasonably calculated to give notice;
- (2) by a reasonably calculated method as prescribed by the country’s law for service for general actions or as the foreign authority directs to a letter rogatory; or (3) by other means not prohibited by international agreement. Because the 1993 amendments to FRCP 4(F) urge that FRCP (4)(3) be construed liberally, the courts have interpreted FRCP 4(F)(3) as authorizing them to utilize technological advancements for serving foreign defendants.

Federal Rules of Civil Procedure, Rule 4((3)(1) provides that “*Service of an individual . . . may be effected in any judicial district of the United States pursuant to the law of the state in which the district court is located . . .*”

Further, Alabama Rules of Civil Procedure, Rule 4.3, provides for service by publication upon order of the Court.

The challenge facing Petitioner in this case is there are no traditional newspapers in Guatemala that will allow for publication of legal notices which originate in courts in the United States.

CONCLUSION

Global Legal Notices® offers an improved method of providing actual notice to a Respondent of a pending lawsuit while satisfying the Court's requirements for service by publication. It is widely held that service by publication has a limited success rate in providing actual notice to a Respondent that a legal case is pending. Yet, courts routinely issue an Order allowing for service by publication in a newspaper, either print or online, as a last resort method to complete service of process.

Wherefore, Petitioner respectfully requests that the Court issue an Order for Service by Publication in the instant case.

Respectfully submitted,

Sara N. Holmes
Attorney for Petitioner

ORDER FOR SERVICE BY PUBLICATION

IT IS SO ORDERED that the Amended Summons, Amended Petition, all court-issued documents, and this ORDER shall be published in *Global Legal Notices*, a legal notice publication of general circulation in Guatemala, for a period of four (4) consecutive weeks and that Proof of Publication be filed with this Court no later than thirty (30) days after completion of the publication.

Judge, Circuit Court of Lauderdale County, Juvenile Division

AFFIDAVIT OF DUE DILIGENCE SEARCH

I declare, under penalty of perjury of the laws of the State of Alabama, that the following is true and correct to the best of my knowledge and that I could competently testify, if called, to the following:

1. I am the CEO of Process Service Network, LLC, a process server and investigator with extensive experience in international service of process, am over the age of 18 years, and not a party to the within-named action. I have been a Registered Process Server and owner of Process Service Network, LLC since 1978. I have authored four (4) books on service of process, international investigations and court filing procedures and have conducted training seminars for the past 34 years. I regularly serve, or cause to be served, legal documents domestically and worldwide and supervise all international service and investigation assignments for clients who make assignments to us in Guatemala. I regularly conduct MCLE courses on international service of process for major law firms and state Bar Associations. I am a Life Member of the *National Association of Investigative Specialists* and the *International Process Servers Association*. I serve on the Advisory Board of Professional Process Server Network. I

am qualified as an expert in my field and can competently testify to the facts stated and declared within.

2. On April 8, 2020, I received an assignment from the Lauderdale County Department of Human Resources, along with written instructions to serve the named Respondents, **Otilio Coy Bol** and **Olivia Yaxcal Poou** ("Respondents"), in the case In the Matter of M.C.Y., a child, with a Juvenile Court Summons, Amended Petition for Termination of Parental Rights (TPR). My instructions were to locate and serve the Respondents at their last known address of 86 Caserio El Zapote, Sayaxche, Peten, Guatemala, C.A.
3. Service was attempted at the address listed in paragraph 2 above on April 13, 2020. The specific address could not be located. Addresses in Guatemala do not usually have numeric elements and are generally stated by area. There is no such number as "86" on Caserio El Zapote. It is commonly assumed that people know their neighbors and can identify a specific address by inquiring of those in the neighborhood. However, the process server was unable to inquire as to the whereabouts of the Respondents since the area described in the address was too broad. The population of the town is approximately 100,000 and too large to determine an exact address, based on the information provided.
4. I conducted a search to locate the whereabouts of the

Respondents. The following is a result of that search:

5. Search using Facebook, Twitter, Instagram, MySpace, YouTube, Google+, WhatsApp, WeChat, Line and Foursquare. Result: Numerous similar names were located but none were a match to either Respondent.
6. All online telephone directories for the region of Sayaxche, Guatemala. Result: no listings were found.
7. Criminal index for Guatemala. Result: Nothing found.
8. Search of business licenses for 3 major cities in Guatemala. Result: Records are not available at this time.
9. Search of public medical facilities and hospitals in Sayaxche, Guatemala. Result: Nothing found.
10. Search of the Guatemala national registry. Result: There are 3 possible matches of individuals in Guatemala. Neither of them match the Respondents.
11. Search using TLO (TransUnion) for name and last known address. Results: Nothing found.
12. Post Office (Servicios Postales) search in Sayaxche, Guatemala. Result: The postal carrier assigned to the general neighborhoods do not recognize the Respondents' names.
13. Additional database searches revealed 2 possible matches. Each available data was investigated and determined to be invalid. The data checked was similar

names.

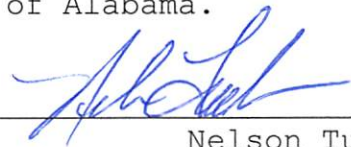
14. Other steps, not required for publication, were taken to locate the Respondents. Result: All were unsuccessful.

15. The addresses searched were provided from the following sources: Petitioner, and obtained in course of our investigation.

16. SUMMARY: Based upon all available information, I am unable to serve the Respondents.

17. RECOMMENDATION: Service by publication. However, traditional print newspapers in Guatemala will not publish legal notices because there is no law in Guatemala allowing for such practice. The only known method of service by publication is through Global Legal Notice, LLC (www.GlobalLegalNotices.com). Service by publication using that source is more likely to give actual notice to the Respondents than traditional newspaper publication, as described on the website on the page "Comparison Chart." (see Exhibit "1")

Executed on this 15th day of April 2020, at Chatsworth, CA, attesting the foregoing to be true and correct, under penalty of perjury of the laws of the State of Alabama.



Nelson Tucker

California All-Purpose Acknowledgment

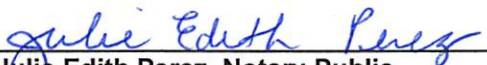
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

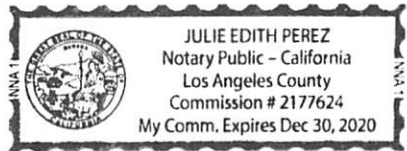
State of California }
 }
County of Los Angeles } ss.

On April 15, 2020, before me, Julie Edith Perez, Notary Public, personally appeared Nelson Tucker who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and Official Seal.


Julie Edith Perez, Notary Public
My Commission Expires December 30, 2020



Comparison Chart

International Service by Publication

Features	Global Legal Notices	Traditional Newspapers
Publish court Notice of Publication	Yes	Yes
Open access to public	Yes	Yes
Publish actual court documents	Yes	No
Search engine friendly	Yes	No
Extended publication period	Yes	No
Available in all countries	Yes	No
Translation in multiple languages	Yes	No
Email notification	Yes	No
Unlimited size of notice	Yes	No
Exceeds minimum requirements	Yes	No
Search by name or case number	Yes	No
Available on computer and cell	Yes	No
Cost efficient	Yes	No

State of Alabama
Unified Judicial System

JUVENILE COURT SUMMONS

Court Case Number
41-JU-10-295.02

Form JU-9 Rev. 5/2017

IN THE JUVENILE COURT OF LAUDERDALE COUNTY, ALABAMA

Name of County

In the Matter of M.C.Y., a child

Name of Child

NOTICE TO: OTILIO COY BOL & Any and All unknown father 86 Caserio El Zapote, Sayaxche, Peten (Guatemala)

Name

Address

A PETITION ALLEGING DELINQUENCY, IN NEED OF SUPERVISION, OR DEPENDENCY, OR TERMINATION OF PARENTAL RIGHTS HAS BEEN FILED IN THIS COURT CONCERNING THE ABOVE-NAMED CHILD. A COPY OF THAT PETITION IS ATTACHED TO THIS SUMMONS.

YOU MUST APPEAR BEFORE THE COURT AT THE DATE, TIME, AND PLACE BELOW TO ANSWER OR TESTIFY AS TO THE ALLEGATIONS OF THE PETITION.

Date: July 17, 2020

Time: 9:00 a.m. AM

Room: Courtroom No. 4, Third Floor

Address: Lauderdale County Courthouse

200 S. Court Street

Florence, AL 36630

3-30-2020

Date

Missy Homan

Signature of Clerk

TO ANY PARENT, LEGAL GUARDIAN, OR LEGAL CUSTODIAN (CONCERNING THE PETITION ALLEGING DELINQUENCY, IN NEED OF SUPERVISION, OR DEPENDENCY ONLY)

You, the parent, legal custodian, or other legal custodian, having custody or control of the above-named child, must appear and bring the above-named child before the court at the time fixed to answer or testify as to the allegations in the attached petition. Also, you, as the parent, legal guardian, or legal custodian, are hereby notified that you may be made a party to this proceeding pursuant to Ala. Code 1975, §12-15-113 and Rule 31, Alabama Rules of Juvenile Procedure, and have a right to an attorney if you are unable to afford one. Please notify the court if your address changes.

TO ANY LAW ENFORCEMENT OFFICER OR OTHER AUTHORIZED PERSON:

You are ordered to serve the above summons and a copy of the petition as directed to each person named above.

3-30-2020

Date

Missy Homan

Signature of Clerk

I certify that I personally served a copy of this summons and petition on

Name(s) and Date of Service

Signature of Server

Ala. Code 1975, § 12-15-122; Rule 13, Ala.R.Juv.P.

COURT RECORD: (Original)

PARENT/LEGAL GUARDIAN/LEGAL CUSTODIAN: (Copy)

CHILD: (Copy)

OTHER: (Copy)

IN THE JUVENILE COURT OF LAUDERDALE COUNTY, ALABAMA
Name of County

In the Matter of M.C.Y., a child
Name of Child

NOTICE TO: OLIVIA YAXCAL POOU 86 Caserio El Zapote, Sayaxche, Peten (Guatemala)
Name Address

A PETITION ALLEGING DELINQUENCY, IN NEED OF SUPERVISION, OR DEPENDENCY, OR TERMINATION OF PARENTAL RIGHTS HAS BEEN FILED IN THIS COURT CONCERNING THE ABOVE-NAMED CHILD. A COPY OF THAT PETITION IS ATTACHED TO THIS SUMMONS.

YOU MUST APPEAR BEFORE THE COURT AT THE DATE, TIME, AND PLACE BELOW TO ANSWER OR TESTIFY AS TO THE ALLEGATIONS OF THE PETITION.

Date: July 17, 2020
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 Room: Courtroom No. 4, Third Floor
 Address: Lauderdale County Courthouse
200 S. Court Street
Florence, AL 35630

Date _____
Signature of Clerk

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You, the parent, legal custodian, or other legal custodian, having custody or control of the above-named child, must appear and bring the above-named child before the court at the time fixed to answer or testify as to the allegations in the attached petition. Also, you, as the parent, legal guardian, or legal custodian, are hereby notified that you may be made a party to this proceeding pursuant to Ala. Code 1975, §12-15-113 and Rule 31, Alabama Rules of Juvenile Procedure, and have a right to an attorney if you are unable to afford one. Please notify the court if your address changes.

TO ANY LAW ENFORCEMENT OFFICER OR OTHER AUTHORIZED PERSON:

You are ordered to serve the above summons and a copy of the petition as directed to each person named above.

Date _____
Signature of Clerk

I certify that I personally served a copy of this summons and petition on _____
Name(s) and Date of Service

Signature of Server

Ala. Code 1975, § 12-15-122; Rule 13, Ala.R.Juv.P.

IN THE CIRCUIT COURT OF LAUDERDALE COUNTY, ALABAMA
JUVENILE DIVISION

IN RE: THE MATTER OF

M C Y

Case No. JU-2010-000295.02

A minor child

AMENDED PETITION FOR TERMINATION OF PARENTAL RIGHTS (TPR)

COMES NOW, the Lauderdale County Department of Human Resources, an agency of and for the State of Alabama Department of Human Resources, and files this Amended Petition for Termination of Parental Rights to amend the Petition for Termination of Parental Rights filed in this matter on March 21, 2013, seeking permanent custody of the minor child, namely, M C Y born on April 12, 2010, and respectfully shows unto this Honorable Court the following:

1. The Lauderdale County Department of Human Resources is an agency of and for the State of Alabama Department of Human Resources and on June 24, 2010, the Lauderdale County Department of Human Resources, hereinafter referred to as Petitioner, was awarded the temporary custody of the said M C Y.
2. Petitioner avers that M C Y is a minor female, born in Lauderdale County, Alabama, and whose date of birth was April 12, 2010. The said minor child presently resides in foster care under the supervision of the Lauderdale County Department of Human Resources and has been for approximately six and a one-half (6 ½) consecutive years as of the date of this amended petition.

3. The Petitioner avers that the child's natural mother is Olivia Yaxcal Poou, who is over the age of majority, and whose last known address is 86 Caserio El Zapote, Sayaxche, Peten (Guatemala).

4. The Petitioner avers that paternity on the minor child has not be properly adjudicated notwithstanding DNA testing on the alleged father is Otilio Coy Bol. The alleged father, Otilio Coy Bol, is over the age of majority, and his last known address is 86 Caserio El Zapote, Sayaxche, Peten (Guatemala). The legal father of the minor child is unknown.

5. Petitioner avers that the minor child, M C Y , is currently in the legal control, custody, and supervision of the Lauderdale County Department of Human Resources, an agency of the State of Alabama Department of Human Resources, by virtue of a previous temporary order of custody in this Court and that the said minor child has previously been found and adjudicated to be dependent and in need of supervision and care, and further, the Petitioner, avers that the said minor child continues to be dependent and in need of supervision and care and that the said child is without a natural parent capable of providing for her continued care, health, protection, supervision, and general well-being. Petitioner avers that the said minor child is without a natural parent or guardian able to provide for her support, training, education and general good health and well-being and that the child has become dependent upon those other than her natural mother and her alleged father and any and all unknown fathers claiming an interest in and to the minor child in order to maintain proper health, proper development, supervision and general well-being.

6. This court has original jurisdiction over the said child pursuant to Ala. Code§ 12-15-114(c)(2).

7. Petitioner avers that it is willing and able to assume permanent legal custody of the minor child pursuant to Ala. Code§ 12-15-320(b)(1).

8. Petitioner avers that Olivia Yaxcal Poou, the natural mother, has failed and is unable and/or unwilling to provide appropriate care, protection and supervision for M C Y a minor.

9. The Petitioner avers that Otilio Coy Bol, the alleged father, and any and all unknown fathers claiming an interest in and to the minor child, have failed and are unable and/or unwilling to provide appropriate care, protection and supervision for M. C Y a minor.

10. Petitioner avers that the child has no mother or father who is able or willing to discharge their responsibilities to and for the child, or that the conduct or condition of the parents renders them unable to properly care for the child and that the conduct or condition is unlikely to change in the foreseeable future.

11. Petitioner avers that the mother, Olivia Yaxcal Poou, has abandoned the minor child. Ala. Code§ 12-15-319(a)(1).

12. Petitioner avers that the alleged father, Otilio Coy Bol, and any and all other unknown fathers, have abandoned the minor child. Ala. Code§ 12-15-319(a)(1).

13. Petitioner avers that reasonable efforts by the Department for reunification have been made and have not been successful. Ala. Code § 12-15-319(a)(7).

14. DHR asserts that the mother, the alleged father, and any and all unknown fathers failed to provide for the material needs of the child or to pay a reasonable portion of support of the child, where able to do so. Ala. Code § 12-15-319(a)(9).

15. DHR asserts that the mother, the alleged father, and any and all unknown fathers failed to maintain regular visits with the child. Ala. Code § 12-15-319(a)(10).

16. DHR asserts that the mother, the alleged father, and any and all unknown fathers failed to maintain consistent contact with the child. Ala. Code § 12-15-319(a)(11).
17. The last time the Department spoke with the mother and alleged father was on or about July 23, 2015.
18. The last time the mother and the alleged father skyped with the minor child was on or about July 15, 2013.
19. The mother and the alleged father of the above-named child have not been in contact with the Department or their child since on or about July 23, 2015.
20. The mother, the alleged father, and any and all unknown fathers have not contacted the Department within the last four (4) months.
21. The mother and the alleged father and any and all unknown fathers have not visited the child within the last four (4) months.
22. DHR asserts that there has been a lack of effort by the parents to adjust their circumstances to meet the needs of the child in accordance with agreements reached, including agreements with DHR, in an administrative or judicial review. Ala. Code § 12-15-319(a)(12).
23. DHR asserts that the mother and father are not at the present time and will not be in the foreseeable future able or willing to provide a fit and suitable home for said child, nor provide for the future support, care, or education for the child. Further, it would be in the best interests of the child for the mother and father to be permanently relieved of the child's care and custody.
24. Petitioner avers that reasonable efforts to prevent removal of the child from the home have been made.

25. That the Department attempted to located the mother and alleged father by the following efforts which include: service by international methods, but was unsuccessful in locating and serving them.

26. Petitioner avers that efforts to secure suitable relative resources to be a placement for the child or for legal custody of the child have been exhausted and there exists no known appropriate relative resource for the child.

27. Petitioner avers that there are no viable alternatives to termination of parental rights in order to serve the child's best interests.

WHEREFORE, premises considered, the Petitioner respectfully prays that this Honorable Court will:

- A. Accept jurisdiction of this matter pursuant to Ala. Code § 12-15-114(c)(2);
- B. Appoint a Guardian ad Litem, who is an attorney, to represent the interests of the said child;
- C. Appoint an attorney to represent the mother if the mother is determined to be indigent and unable for financial reasons to retain her own counsel;
- D. Serve notice of this petition and notice of the trial on the mother, alleged father, and any and all unknown fathers in accordance with the Alabama Rules of Civil Procedure;
- E. Upon a hearing in this matter, issue an Order permanently terminating all parental rights of the natural mother, Olivia Yaxcal Poou, to the above-named child;
- F. Upon a hearing in this matter, issue an Order permanently terminating all parental rights of the alleged father, Otilio Coy Bol, and to any and all unknown fathers, to the above-named child;

G. Upon a hearing in this matter, commit said child to the permanent legal custody of the State of Alabama Department of Human Resources for permanent placement or adoption pursuant to Ala. Code § 12-15-320(b)(1).

H. Grant petitioner such other, further, or different relief to which the petitioner may be entitled and as the needs of justice and the best interests of the child may require.

Respectfully submitted on this the 6 day of March, 2017.

Labrina Cook, LBSW
LABRISCA COOK, LBSW
Lauderdale County DHR

Sworn to and subscribed before me on this the 6th day of March, 2017.

Judith Stulton
NOTARY PUBLIC
My commission expires: 7/3/17

Sara N. Holmes
SARA N. HOLMES (HOL142)
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saranholmes@hotmail.com