

## **E. JOSEPH GRANT V. SHARON AND LEONARD ELLIS**

### **JOSEPH GRANT V. SHARON AND LEONARD ELLIS**

#### **Introduction**

This is a case in which a ten-year old child's father and grandparents are fighting for custody over the boy following the death of the child's mother. The mother previously had physical custody of the child; the parents shared legal custody. The child's name is William Grant. William's father is Joseph Grant. His maternal grandparents are Sharon and Leonard Ellis. William lived with his mother, Janice, and his father, Joseph, until they divorced when he was five years old. He then lived with his mother until she was murdered by her second husband three months ago. The child subsequently went to live with his maternal grandparents until custody could be resolved. His father has filed suit for sole legal and physical custody. Both the father and the grandparents want physical and legal custody of William. The details of the case are set forth in the witness statements. The case is a bench trial, unless your instructor tells you otherwise. The trial is taking place in February 2008.

#### **Witnesses and Exhibits**

The plaintiff may call as witnesses Joseph Grant and Reverend John Miller. The defendant may call as witnesses Sharon Ellis and Lee Forrest, a social worker who prepared a court-appointed custody evaluation report (the report recommends that the Ellises retain physical custody). Defendant Leonard Ellis is not available to testify because he is recovering from emergency surgery to bypass a narrowed heart artery. He has not been involved in the case due to the surgery.

The following exhibits are available:

1. Joseph Grant's Meritorious Service Medal
2. Reliable Drug Testing Lab Reports
3. Picture drawn by William Grant
4. William Grant's medical records
5. Sharon and Leonard Ellis' medical records
6. New England Journal of Medicine report about second hand smoke
7. William's report card
8. Photograph of the Ellis home
9. Photograph of playground near Joseph Grant's apartment
10. Photograph of homes across the street from Recovery House
11. Record of conviction
12. Social worker's court-ordered expert report
13. Social worker resume

The federal rules of evidence apply, unless your instructor provides otherwise. Your instructor will advise you as to whether the witnesses have been deposed, or whether their statements were given solely to their attorneys.

## E. JOSEPH GRANT V. SHARON AND LEONARD ELLIS

The parties must stipulate that the medical records and drug tests are certified business records under FRE 803(6).

You may create any demonstrative exhibits that you think will enhance your case.

### **Instruction for Witnesses**

Witnesses must testify in accordance with their statements. They can make up any necessary facts that are consistent with the overall scenario.

### **Legal Research File**

In the State of Confusion, third-party custody is governed by both common law and statutes. The Supreme Court of Confusion set forth the legal standard for resolving third-party custody cases in Ross v. Devlin, 313 Cu. 455 (2002). Relevant portions are provided below. You need not conduct any further legal research, unless your instructor directs otherwise.

#### **Ross v. Devlin, 313 Cu. 455 (2002):**

...In an action between a parent and a third party, a presumption of custody exists in favor of the parent. This presumption can be rebutted by a finding either of lack of fitness on the parents' part or the existence of extraordinary circumstances which are significantly detrimental to the child remaining in the custody of the biological parent or parents. The presumption in favor of custody in the biological parent arises from the judicially accepted belief that the affection of a parent for a child is as strong and potent as any that springs from human relations and leads to a desire and efforts to care properly for and raise the child, which are greater than another would be likely to display. That idea is "'so rooted in the tradition and conscience of our people as to be ranked as fundamental.'" *Griswold v. Connecticut*, 381 U.S. 479, 487, 85 S.Ct. 1678, 1683, 14 L. Ed.2d 510, 517 (1965) (Goldberg, J., concurring) (citation omitted). The Supreme Court of the United States noted long ago that "[i]t is cardinal with us that the custody, care and nurture of the child reside first in the parents." *Prince v. Massachusetts*, 321 U.S. 158, 166, 64 S.Ct. 438, 442, 88 L.Ed. 645 (1944).

The rebuttable presumption recognizes that a parent's right to custody is not absolute. That parental right must, at times, give way to the State's *parens patriae* obligation to ensure that children will be properly protected from serious physical or psychological harm. The "exceptional circumstances" exception may rebut the presumption in favor of a parent seeking custody even if he or she is deemed to be a fit parent. Suffice it to say, "exceptional circumstances" mean more than a child's best interests. Given the evolving dynamics within the family structure, the scope of "exceptional circumstances" must await case-by-case development. The standard we adopt today is designed to reduce or minimize judicial opportunity to engage in social engineering in custody cases involving third parties. We have applied the parental preference to avoid the danger of giving courts the power to award custody to non-

## E. JOSEPH GRANT V. SHARON AND LEONARD ELLIS

parents solely on the grounds of best interests. If the best interests of the child were the only criterion, then a judge could take children from their parents because the judge personally disapproves of the parents' limited means. The danger inherent in that approach is that it permits reallocation of children by the judiciary--a system that would undoubtedly victimize poor people.

The standard that we adopt has as its benchmark the welfare of the child while at the same time protecting parental rights. In short, the standard that controls a custody dispute between a third party and a parent involves a two-step analysis. The first step requires a finding of unfitness or "exceptional circumstances." If either the unfitness standard or the "exceptional circumstances" prong is satisfied, the second step requires the court to decide whether awarding custody to the third party would promote the best interests of the child. A child's "best interests" standard does not contain within it any idealized lifestyles. It is not a choice between a home with all the amenities and a simple apartment, or an upbringing with the classics on the bookshelf as opposed to the mass media, or even between parents or providers of vastly unequal skills. That said, the point to be emphasized is that the best interest of the child cannot validly ground an award of custody to a third party over the objection of a parent without an initial court finding that the parent is unfit or that the "exceptional circumstances" prong has been satisfied.

"Exceptional circumstances" are circumstances that make custody in the parent *significantly detrimental* to the child. The central focus of the analysis, therefore, is whether the child would suffer significant harm if the biological parent retains custody. A third party does not necessarily overcome the presumption of parental custody by playing an active role in a child's life or by caring for the child for a period of time. Our cases have emphasized that parents should be encouraged in time of need to look for help in caring for their children without risking loss of custody. The presumption preferring parental custody is not overcome by a mere showing that such assistance was obtained -- nor is it overcome by showing that those who provided the assistance love the children and would provide them with a good home. These circumstances are not alone sufficient to overcome the preference for parental custody.

The factors which emerge from our prior decisions which may be of probative value in determining the existence of exceptional circumstances include the length of time the child has been away from the biological parent, the age of the child when care was assumed by the third party, the possible emotional effect on the child of a change of custody, the period of time which elapsed before the parent sought to reclaim the child, the nature and strength of the ties between the child and the third party custodian, the intensity and genuineness of the parent's desire to have the child, and the stability and certainty as to the child's future in the custody of the parent. *Compare Milos v. Reiger* (periodic absences from the state by the father, due to his occupation as a merchant seaman, did not constitute extraordinary circumstances, where the father had arranged suitable and safe alternative care for the child during those absences) *with Forest v. White* (exceptional circumstances established when the child had been in the continuous custody of the third-party couple from age four months, until she was nine years old; the

## **E. JOSEPH GRANT V. SHARON AND LEONARD ELLIS**

biological mother did nothing to gain custody for eight years; the biological mother's motives in seeking custody were questionable; and the child would suffer psychological trauma upon removal from people she always had known to be her parents).

Once unfitness or exceptional circumstances have been shown, the court must consider the best interests of the child. Under Confusion Family Code § 345.54, the court shall consider all relevant factors, including:

- (1) the physical, emotional, mental, religious, and social needs of the child;
- (2) the capability and desire of each parent to meet these needs;
- (3) the child's preference if the child is of sufficient age and capacity to form a preference;
- (4) the interaction and interrelationship of the child with his parent or parents, his siblings, and any other person who may significantly affect the child's best interest;
- (5) the child's adjustment to his home, school and community;
- (6) the mental and physical health of all individuals involved;
- (7) the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child; and
- (8) other factors that the court considers pertinent.

### **WITNESS STATEMENTS/DEPOSITION SUMMARIES**

#### **Statement of Joseph Grant**

I am thirty-eight years old and the father of William Grant, who is ten years old. I married Janice Ellis, William's mother, ten years ago in 1997, when she became pregnant with William. We met when I was home in Danville on leave from the Army. She worked with my sister Denise, and Denise introduced us. When we got married, she moved to Fort Bragg, where I was stationed. I was on active duty for a total of 20 years and served as part of the peacekeeping mission in Kosovo. I was awarded an Army Achievement Medal for my service in Kosovo, which involved rescuing several military and local residents after helicopter crashed into a local village. In the Army, I served as a mechanic. After my Army service was complete, we moved back to Danville.

I grew up in Danville. My mother passed away when I was in high school. She committed suicide after suffering from depression for many years. My father now lives in Tampa, Florida. He is an alcoholic and was never much of a father of me. He never hurt me physically, but he was very withdrawn and basically ignored me, especially after my mom died. My father and I have not spoken in twenty years. I graduated high school and immediately joined the military to get away from home. My older sister Denise and I are extremely close and she has been an incredible source of inspiration to me over the years. Unfortunately, she has since moved to San Diego, so I do not get to visit her regularly.

## **E. JOSEPH GRANT V. SHARON AND LEONARD ELLIS**

Janice and I divorced after six years of marriage when she became involved with another man named Ronald Daniels. Under our divorce agreement, which we worked out with a mediator, Janice had physical custody of William, and we shared legal custody. I had a visitation schedule with William, which provided that I had custody of him every other weekend. I also attended all of his school events and meetings with teachers.

Throughout our marriage and afterwards, Janice worked full-time as a teller at Danville Savings and Trust. Sharon Ellis, Janice's mother, provided full-time day care for William until he went to preschool at age four. After that, she provided day care for William before and after school hours, from 7am to 9am and from 3pm to 6pm. Janice and I paid her \$75.00 a week for her services, and we split the cost evenly.

The divorce hit me like a ton of bricks. I kept the apartment where we lived, and Janice moved about five miles away to the west side of Danville with Ronald Daniels and his teenage daughter. She was soon pregnant with Daniels' child. I was extremely depressed. I had not sensed any problems in our marriage, and Janice's betrayal shocked me to my core. I felt that the world had turned against me, and I was hopeless about the future. I sought psychiatric assistance at the local Veteran's Administration hospital, but they put me on a waitlist and never contacted me. That's the last time I rely on the medical profession to help me with my mental health. Janice became concerned about my mental state. William told her that all we were doing together on our visits was sitting around the house.

Janice contacted Steve Jones, one of my buddies from high school to see if he could talk to me. Steve was a fun guy, but not very good at talking about emotional issues. He did his best to get me out of the house. Unfortunately, he and his buddies also used drugs recreationally, and I was spending a lot of time with those guys. In January of 2004, I began using drugs such as marijuana and crystal meth to dull the pain of my heartache. At the time, I was working as a mechanic for Danville metro bus, where I had worked since my discharge from the Army. In June 2004, I failed a regular urine screening, and I was fired.

Without any income, it was only three months before I lost my apartment, my car was repossessed, and I was forced to crash at the homes of my so-called friends. After I lost my apartment, Janice refused to let me take William. I didn't have the energy to fight her, and I knew I was falling apart. I felt that William was better off without me as a role model. I was unable to pay child support after I was fired, and I was unable to drive to Janice's home to visit William. I tried to visit him once when my sister Denise gave me a ride over there, but Janice would not let me in. One of the guys I was crashing with, Stu Morris, got me involved in selling crystal meth. He said I could stay with him as long as I helped him with his drug business. I needed the money and saw no future for myself, and so I began working for him in October 2004. About a year later, in October 2005, I was arrested when the police raided Morris's home.

As part of a plea bargain in which I provided information to the district attorney about Morris's drug crimes, I was sentenced to one year in prison. This was a real wake-

## **E. JOSEPH GRANT V. SHARON AND LEONARD ELLIS**

up call to me. In prison, I joined a prayer group run by Reverend Miller of Danville's Church of Hope. I grew up without any religion other than a Christmas tree, and so this was a true awakening to me. God truly saved me. I also joined Narcotics Anonymous in prison. I am drug tested every six months as part of my probation, and all my tests have been negative except for one following Janice's murder, when I smoked one joint of marijuana (and instantly regretted it). I occasionally have one or two beers in the evenings after work. I no longer see Steve or his friends. I no longer attend Narcotics Anonymous meetings, because my church provides me with spiritual support.

Since I was released from prison, I have had visitation with William every other weekend. Janice was wary at first, and only allowed me to take William during the day. After a few months, she felt comfortable enough for me to take William to my apartment. I've lived at Recovery House since my release from prison. It is a church-based housing program for ex-offenders. I have my own one-bedroom apartment, with a pull-out sofa in the living room. The bedroom is decorated with sports memorabilia for William, and I sleep in the living room. I came to Recovery House through my contact with Reverend Miller. I am currently working as a maintenance man for the Church of Hope, and as part of the arrangement, I get my housing for free. Unlike the other residents, I can stay at Recovery House indefinitely since I am an employee. My income is \$8,000 per year.

Two months ago, on November 15, 2007, Janice was murdered by her second husband, Ronald Daniels, who also took his own life. She apparently had a restraining order against him for domestic violence. The murder happened outside the bank where she works. Janice and her children were living at the Ellis home for one month prior to her murder, after she had separated from Daniels. Janice had another son with Ronald. His name is David, and he is four-years old. William and David have remained at the Ellis home since then. I was pretty shaken by Janice's murder, and I felt myself slipping back into depression. I made a grave mistake and smoked some marijuana to ease my pain. The next day, I admitted my sin to Reverend Miller and we prayed together. I have not used any drugs since then, and I had a drug test right before trial to prove that I am drug-free.

I desperately want custody of my son. I am on firm footing. I am a better man for my experience in prison. I have found God. I am no longer depressed, and I see a positive future for William and me. I have new girlfriend, Mary Ramos, who I have been dating for the past six months. She attends the Church of Hope, where I met her. Because we are committed to a long-term relationship, I am ready to introduce her to William.

I have some concerns about William living with Sharon and Leonard Ellis. They are loving grandparents, and I want them to remain a part of William's life. I also think it is important that William grow up close to his half-brother, David. However, William has asthma, and both Sharon and Leonard are life-long smokers who have never been able to quit despite numerous attempts. Their health is also poor. Sharon has had two heart attacks and Leonard has emphysema. They have a two-story home, but they never go upstairs due to their health conditions. In my opinion, two young boys are too much

## **E. JOSEPH GRANT V. SHARON AND LEONARD ELLIS**

of a challenge for them to manage. They also are not church-going. Since becoming involved at the Church of Hope, religion is increasingly important to me. I want William to attend Sunday school and to become involved in the church's youth group. I think a strong religious foundation will help him avoid the mistakes I made.

I realize that William will have to go to a new school if he moves in with me. However, he is an outgoing kid, and I think he will adapt. Plenty of children change schools. Also, my job is flexible, so I can be available before and after school to take care of William. I struggled throughout school because I had dyslexia, which was only diagnosed when I was in the military. I still have difficulty reading. As a result, I will make sure that William does not struggle as I did.

### **Statement of Sharon Ellis**

I am William Grant's grandmother. I am 67 years old, and I live with my husband Leonard in Danville. Leonard is 72 years old. We have been married for 51 years. We had five children until we lost Janice. We have eleven grandchildren, ranging in age from 6 months to 22 years old. We own our own two-story home, where we have lived for 37 years. The house is paid off. Both my husband and I are retired. Leonard receives a retirement pension from the Post Office, and we both collect Social Security. I ran an in-home day care center for 15 years. Our health is generally fine. We are smokers, but we smoke outside when the boys, or any other children, are around. I have had two minor heart attacks, but am fully recovered. Leonard has emphysema and recently had an emergency operation to bypass a narrowed heart artery. He is expected to recover fully.

Janice was my youngest child. Three of my older children live in the area. As a result, William is very close to his cousins. My husband and I are currently living with William and his half-brother David. When Janice was murdered, the police picked the boys up from school and delivered them into our custody after William called us. I have already been granted permanent custody to David; that matter was uncontested. The custody hearing for William is coming up next month.

We have long cared for both boys. When the kids were babies, I provided day care for them. Even though I had stopped my day care business, I love kids and still had all the educational toys and equipment for the boys. It was my pleasure to help out Janice, and she paid me \$75.00 a week to cover my expenses. After the boys started school, I watched them before and after school. I took them to the bus stop and picked them up in the afternoons. Leonard and I attend many of their school events, such as school concerts, as well as the little league games the boys are involved in. We are involved in the lives of all our grandchildren, and they bring us much joy.

William and David love each other dearly and are very attached. They share a room upstairs in my house with bunk beds. They fight like all siblings do, but they love to play together. William is a doting older brother who loves to teach his little brother new things. They spend a lot of time playing with their X-box, watching TV together,

## **E. JOSEPH GRANT V. SHARON AND LEONARD ELLIS**

and running around our yard. The boys have lived together as brothers since David was born. They do not consider themselves half-brothers. To rip them apart would be devastating to both of them.

I have no doubt that Joseph loves William. I thought very highly of Joseph when Janice first brought him home. He looked great in his uniform and he was very polite and soft-spoken. From living in the same town, I knew that his father was an alcoholic and that his mother had suffered from depression and killed herself, but it seemed that he was able to avoid similar fates. I was crushed when Janice and Joseph got divorced, and I was very angry at Janice for leaving Joseph for Ronald. I never knew what she saw in Ronald, and unfortunately, my concerns were all too real. He was charismatic, unlike Joseph, but he had a terrible temper. Joseph really fell apart after Janice left him.

Unfortunately, it looks like Joseph has followed in his parents' footsteps. His history of depression, drug abuse, and prison time makes him unfit to take care of William. He was arrested for selling marijuana and crystal methamphetamines, but I heard from a friend of mine in the police department that Joseph was also selling and using cocaine and heroin at the time. If he had been caught with those substances, he would have been in jail for much longer. Moreover, Joseph lives in an apartment building full of junkies and ex-cons. Hardly a place to raise a child! After one visit with his father, William told me that he and his father were mugged while walking to their home from the bus stop. (Joseph does not have a car.) William was crying and hysterical while he recounted this horrific incident. That time, no one was hurt. Next time could be much worse!

Janice would be crushed if she knew that William had to grow up in such surroundings as opposed to a stable home in the suburbs. William has many friends in this neighborhood because of all the time he spends at my house before and after school and on school holidays. He is happy here and the neighbors know and love him. I have no doubt that it is in his best interests to stay with me. I am not even sure that he should be going to Joseph's home for weekend visits. He is grieving and needs a stable environment. And what happens when Joseph and his new girlfriend break up? If Joseph spirals out of control, William will be back with us again.

### **Statement of Reverend John Miller**

I am the pastor of the Church of Hope in Danville. I have served as the pastor of this church for fifteen years. The church is in downtown Danville, which is a small city of 50,000 people. Our economy has been hit hard in recent years by the movement of jobs overseas. Our manufacturing industries in particular have taken a huge hit. We have a lot of unemployment, and our downtown is littered with vacant storefronts. I am part of a citywide coalition to spur economic development, but it will take time to attract new businesses to Danville. Our church has about 250 active members, many of whom drive to the church from more suburban areas. The church members are mostly working class families who struggle to stay afloat.



## **E. JOSEPH GRANT V. SHARON AND LEONARD ELLIS**

I met Joseph Grant as part of my prison ministry at the Confusion State Prison. I have been working at the prison for the last seven years. In my own family, my brother served time for armed robbery. I know personally the pain that incarceration can cause to families. I also know how hard it can be for ex-felons on the outside world. Employers shun them, almost guaranteeing that they return to their criminal ways. For these reasons, I felt called to start a prison ministry to stop the cycle of crime and to rehabilitate individuals who have lost their way. I have several grants from major foundations that provide support for the ministry and a transitional housing program for ex-felons. I visit the prison once a week to conduct services and to run a bible discussion group. I was immediately impressed with Joseph's commitment to improving himself. His former military background served him well in prison. He obeyed the rules and was permitted to take community college courses offered in the prison. In short, he was a model prisoner.

Just prior to his release, he sought a position with his old employer. They advised him that ex-felons are barred from public employment. Joseph is truly committed to God, and he is hard-working and trustworthy. Thus, I offered him a position with the Church of Hope as a maintenance man and a general premises supervisor. We are not a wealthy church, and I could only offer him a salary of \$8,000. However, his housing is free in Recovery House -- a transitional housing program run by the Church to get ex-offenders on their feet. He can stay at Recovery House at least one more year, but will have to move after that to make space for another ex-offender. By then, he should be able to get a higher paying job in his field. He is probably overqualified for the work he is doing for the church. Also, Recovery House is not the ideal setting for raising a child. There are currently no other children living at Recovery House. While there is a playground two blocks away, there are not many children who live in the downtown area. Most families live in the more suburban areas of Danville. Thus, the playground has been taken over by drug dealers.

I have met William when he stays with his father on the weekends. Joseph brings him to church on Sundays, and he attends our Sunday Bible School. I often see them in the church courtyard tossing a baseball around and playing basketball. William is usually an outgoing and friendly boy. I've observed him in Sunday School, and he is eager to answer questions and participate in discussions. Since his mother died a few months ago, William has been noticeably withdrawn and uncharacteristically quiet. I often catch him staring vacantly into space. Joseph has asked me to provide some grief counseling to William, and I have been happy to assist. Overcoming grief is a process, however, and it will take William time to adjust to the drastic changes in his life.

Immediately after the murder of his ex-wife, Joseph told me that he would leave William with his grandparents, where "he would be better off." I advised him that this was a turning point in his life, and that God's plan for him was to care for his son. He had slipped back into some old habits, and we held several prayer sessions. With my encouragement, Joseph filed his claim for custody.

**\*\*exhibits begin next page\*\***

## E. JOSEPH GRANT V. SHARON AND LEONARD ELLIS

Joseph Grant's Meritorious Service Medal



***Reliable Drug Testing Services***

443 Frontier Lane  
Center City, Confusion 12345  
(345) 535-3452

**DRUG TEST REPORT**

Subject: Joseph Grant

Requested by: State of Confusion Department of Probation

Social Security Number: 123-45-6788

Form of test: Urinalysis

Verified Result: Negative

Drugs tested for: Amphetamines, Cocaine, Marijuana (THC), Opiates,  
Phencyclidine

Location of collection: Center City, Confusion

Date of collection: 8/10/2007

Location of laboratory: Maplewood, Confusion

Date verified: 8/13/2007

\_\_\_\_\_/s/  
Robert Martin, MD, MRO  
Certified, American Association of Medical Review Officers

***Reliable Drug Testing Services***

443 Frontier Lane  
Center City, Confusion 12345  
(345) 535-3452

**DRUG TEST REPORT**

Subject: Joseph Grant

Requested by: State of Confusion Department of Probation

Social Security Number: 123-45-6788

Form of test: Urinalysis

Verified Result: Positive Marijuana (THC); Negative Amphetamines,  
Cocaine, Opiates, Phencyclidine

Drugs tested for: Amphetamines, Cocaine, Marijuana (THC), Opiates,  
Phencyclidine

Location of collection: Center City, Confusion

Date of collection: 12/5/2007

Location of laboratory: Maplewood, Confusion

Date verified: 12/7/2007

\_\_\_\_\_/s/  
Robert Martin, MD, MRO  
Certified, American Association of Medical Review Officers

***Reliable Drug Testing Services***

443 Frontier Lane  
Center City, Confusion 12345  
(345) 535-3452

**DRUG TEST REPORT**

Subject: Joseph Grant

Requested by: State of Confusion Department of Probation

Social Security Number: 123-45-6788

Form of test: Urinalysis

Verified Result: Negative

Drugs tested for: Amphetamines, Cocaine, Marijuana (THC), Opiates,  
Phencyclidine

Location of collection: Center City, Confusion

Date of collection: 2/1/2008

Location of laboratory: Maplewood, Confusion

Date verified: 2/6/2008

\_\_\_\_\_/s/  
Robert Martin, MD, MRO  
Certified, American Association of Medical Review Officers

HAPPY  
FATHER'S  
DAY

I Love you Dad

Love,  
William



**E. JOSEPH GRANT V. SHARON AND LEONARD ELLIS**

Mid-Town Pediatrics  
Drs. Goldblum, LaFace, and Rogers  
14 Larringer Court  
Danville, CU 12344  
303-424-4566

Date: June 15, 2007  
Patient: William Grant, DOB May 23, 1997  
RE: Well-child examination

**Chief Complaint:** Patient presents with his mother for an annual check up. They have no complaints about William's health.

**History of Present Illness:** William is a healthy 10 year old boy with a past medical history significant for moderate persistent asthma. He was born full term after an uneventful pregnancy and went home with his mother from the hospital after a two day stay. He was bottle fed until age one. His developmental milestones were all met appropriately. He developed asthma at age two and was hospitalized with his initial presentation of asthma. Since then he has had no hospitalizations and infrequent emergency department visits for asthma exacerbations, the last one being at age seven. He was placed on oral steroids several times as a toddler, but not in recent years. Triggers include cat dander, tobacco smoke, and respiratory illnesses. Patient reports that his grandparents have smoked in his presence. He doesn't check his peak flows. He uses albuterol no more than twice a week, and uses his pulmicort turbohaler as directed: one puff twice a day.

**Review of Systems:** No recent illnesses, snoring, or coughing. Otherwise negative.

**Past Medical History:** asthma as above; appendectomy at age seven.

**Allergies:** no known drug allergies; cat dander.

**Medications:** albuterol inhaler as needed; pulmicort inhaler- one puff twice a day; loratadine 10 mg. orally as needed daily.

**Immunizations:** Up to date. Receives influenza vaccine annually.

**Social History:** William lives with his mother, stepfather, and four year old half brother. His parents are divorced. He is in fourth grade and does well in school. He has friends, and doesn't smoke, drink alcohol, or use other illicit drugs.

**Family History:** Both of William's parents are healthy. His maternal grandmother has coronary artery disease, hypertension,

## E. JOSEPH GRANT V. SHARON AND LEONARD ELLIS

and diabetes. His maternal grandfather has COPD and hypertension.

**Physical Examination:** William is well appearing and cooperative  
Heart rate: 80      Blood pressure: 105/60      Respirations: 18  
Head, eyes, ears, nose and throat: nares reveal pale, swollen mucosa, otherwise normal  
Neck: no lymphadenopathy  
Heart: normal rhythm, no murmurs  
Lungs: clear, no wheezes  
Abdomen: soft, nontender, no hepatosplenomegaly  
Genitalia: normal male, no testicular masses or hernia  
Extremities: no edema, brisk capillary refill  
Skin: no worrisome lesions

**Assessment:** William is a healthy 10 year old boy with well controlled moderate persistent asthma.

**Plan:**

1. Asthma- continue pulmicort twice daily and albuterol as needed for shortness of breath. He should use loratidine as needed for allergen exposure. His caregivers should make every effort to keep his environment smoke free, and he should continue to receive annual influenza vaccination.
2. Immunizations- currently up to date. None indicated.
3. Growth and Development- on track.
4. Health Care Maintenance- follow up in 6 months, sooner as needed.



## **E. JOSEPH GRANT V. SHARON AND LEONARD ELLIS**

### **PRIMARY CARE ASSOCIATES**

**1102 River Road  
Danville, CU 12344  
303-234-5678**

**Patient: Sharon Ellis**

**DOB: 5/4/1940**

**Reason for visit: Check Up with Primary Care Physician, Dr. Kris Kanter**

**Date: June 14, 2007**

**Chief Complaint:** Ms. Ellis presents for a scheduled visit to follow up on her established medical problems. She feels well and has no complaints.

**History of Present Illness:** Ms. Ellis is an active 67 year old woman who is a mother of 5 and grandmother to 11. She is active and continues to work part time. She smokes 1 ppd for many years and suffers from shortness of breath with exertion of greater than 10 minutes. She has had heart attacks in the past. Her heart disease is medically treated. She denies chest pain, fevers, and cough.

### **Past Medical History:**

Tobacco abuse: one pack/day x 25 years

Coronary Artery Disease status post non q wave myocardial infarctions 10 years and 5 years ago. Her ejection fraction (heart function) is slightly reduced at 45%.

Hypertension

Hyperlipidemia

Osteoporosis

**Allergies:** None

### **Medications:**

Sublingual nitroglycerin as needed

Lipitor 40 mg/day

Aspirin 325 mg/day

Lisinopril 40 mg/day

Metoprolol extended release 100 mg/day

Calcium with Vitamin D daily

Fosamax 70 mg/weekly

### **Family History:**

Parents had diabetes, hypertension and heart disease. Mother had lung cancer.

### **Social History:**

Ms. Ellis smokes 1 pack/day. She does not drink alcohol. She is married to her husband of 45 years. She does not work. She has a supportive family and is involved in her children's and grandchildren's lives

## E. JOSEPH GRANT V. SHARON AND LEONARD ELLIS

### **Physical Exam:**

General: she looks well and is no acute distress.

Vital signs: pulse- 60, respiratory rate- 20, blood pressure- 137/86, oxygenation on room air at rest- 93%

Heart- regular rate and rhythm, no murmurs

Neck- no bruits

Lungs- generally decreased breath sounds with scattered rhonchi

Abdomen- soft and nontender, no masses

Extremities- warm and well perfused with normal pedal pulses

**Assessment:** 67 year old female with several medical problems and worsening shortness of breath.

### **Plan:**

1. Respiratory- Ms. Ellis has early emphysema and is encouraged to stop smoking. She was counseled for 10 minutes. She feels that smoking helps her to manage her stressors and is not yet ready to consider stopping. We discussed the use of nicotine replacement and Zyban to assist her. She will think about it and let me know if she wants my help in the future. She will start Spiriva- one inhalation a day, and albuterol inhaler to be used as needed up to every 4 hours. We will schedule a chest x-ray and pulmonary function testing
2. Coronary artery disease- stable. Continue current medications. Schedule stress test to assess function.
3. Elevated cholesterol. Patient will continue lipitor. Check fasting lipid panel and liver enzymes.
4. Hypertension- slightly above target. Continue current medications. Smoking cessation is likely to decrease her blood pressure enough to avoid medication alterations.
5. Osteoporosis- continue Fosamax. She is due for a bone density test next year.
6. Health care maintenance- patient is due for a mammogram and pneumonia vaccination.
7. Follow Up- in 4 weeks to discuss test results and assess response to Spiriva and albuterol

## E. JOSEPH GRANT V. SHARON AND LEONARD ELLIS

PRIMARY CARE ASSOCIATES  
1102 River Road  
Danville, CU 12344  
303-234-5678

**Patient: Leonard Ellis**

**DOB: 1/16/1936**

**Reason for visit: Follow up Visit with Dr. Field**

**Date: 6/3/2007**

**Chief Complaint:** Mr. Ellis is here for a check up. He feels well and has no complaints.

### **History of Present Illness:**

Mr. Ellis continues to smoke one pack/day for 55 years. He has been unsuccessful at smoking cessation in the past, but still would like to quit. His emphysema is stable, but he continues to have shortness of breath with moderate exertion. He denies chest pain, headaches, swelling of his extremities, or recent illnesses.

### **Past Medical History:**

Chronic Obstructive Pulmonary Disease (emphysema)

Hypertension

BPH (benign prostatic hypertrophy)

Tobacco Abuse

**Allergies:** none

### **Medications:**

Aspirin 325 mg/day

Spiriva- one inhalation/day

Albuterol inhaler- 2 puffs every 4 hours

Advair 500/50- one inhalation twice a day

Hytrin- 10 mg/day

Lisinopril- 30 mg/day

Hydrochlorothiazide- 25 mg/day

### **Social History:**

Smoker for 55 years- 1 ppd; married to Sharon Ellis for 45 years; 5 children and 11 grandchildren; drinks 1-2 drinks/week; retired metal worker.

### **Family History:**

Parents both died of lung cancer. No heart disease in his family.

### **Physical Exam:**

General: well appearing elderly man appearing his stated age

## **E. JOSEPH GRANT V. SHARON AND LEONARD ELLIS**

Vital Signs: heart rate- 80, respiratory rate- 19, oxygenation on room air- 92%

Neck: no bruits

Heart: regular rate and rhythm, no murmurs, rubs or gallops

Lungs: decreased breath sound throughout with anterior wheezing.

Abdomen: soft, nontender, no masses.

Extremities: slightly decrease pedal pulses, cool toes, no edema.

**Assessment:** Elderly man with hypertension, tobacco abuse, and COPD.

**Plan:**

1. Respiratory- Continue current medications for COPD. Mr. Ellis wants to quit smoking. We discussed options for assistance. He plans to choose a quit date in the next month, use nicotine patches, and Zyban. Follow up in one month.
2. Hypertension- Stable. Continue aspirin, lisinopril, and hydrochlorothizide/
3. BPH- continue Hytrin.
4. Health Care Maintenance- No immunizations due today. Follow up in six months for a complete physical and fasting bloodwork.

New England Journal of Medicine Article  
Volume 328, June 10, 1993, Number 23

## ABSTRACT

*Background* Exposure to environmental tobacco smoke, as reported by parents, has been linked to diminished pulmonary function and more frequent exacerbations of asthma in children with the disease. Further insight into this association might be gained by using urine cotinine levels to measure actual exposure.

*Methods* We measured urine cotinine levels in 199 children with asthma; 145 also underwent pulmonary-function studies. A parent answered questions about each child's exposure to environmental tobacco smoke. Acute exacerbations of asthma during the preceding year were documented through blinded review of medical records. Possible confounding factors were accounted for by the use of multivariate analysis and by comparisons of serum theophylline levels in exposed and unexposed children.

...

*Conclusions* Measurement of urine cotinine levels provides further evidence of an association between exposure to environmental tobacco smoke and pulmonary morbidity in children with asthma. These data emphasize the need for systematic, persistent efforts to stop the exposure of children with asthma to environmental tobacco smoke.

**E. JOSEPH GRANT V. SHARON AND LEONARD ELLIS**

**CCPS**  
**CENTRAL COUNTY PUBLIC SCHOOLS**  
**GRADE 4 REPORT CARD**

Student: William Grant  
 School: North Oaks E.S.

Grade: 4  
 Year: YR

Teacher: Mrs. Owings  
 Date: Jan. 30, 2008

Grading Key:	E=Excellent	U=Unsatisfactory
	S=Satisfactory	IS=Improvement Shown
	N=Needs Improvement	
C=Consistently	O=Occasionally	R=Rarely

<b>SUBJECT</b>	1 <sup>st</sup> quarter	2 <sup>nd</sup> quarter	3 <sup>rd</sup> quarter	4 <sup>th</sup> quarter
READING OVERALL	N	U		
• Instructional level	BELOW	BELOW		
• Understands what is read	N	N		
• Applies reading strategies	U	N		
• Reads with fluency	N	U		
• Participates in discussions	N	U		
SOCIAL STUDIES	S	N		
SCIENCE	S	N		
MATHEMATICS	S	N		

<b>WORK HABITS</b>	1 <sup>st</sup> quarter	2 <sup>nd</sup> quarter	3 <sup>rd</sup> quarter	4 <sup>th</sup> quarter
FOLLOWS DIRECTIONS	E	O		
SHOWS BEST EFFORT	O	R		
WORKS NEATLY	R	R		
COMPLETES HOMEWORK	E	R		
COMPLETES ASSIGNMENTS	O	R		

<b>SCHOOL BEHAVIOR</b>	1 <sup>st</sup> quarter	2 <sup>nd</sup> quarter	3 <sup>rd</sup> quarter	4 <sup>th</sup> quarter
DEMONSTRATES SELF-CONTROL	O	U		
ACCEPTS RESPONSIBILITY FOR ACTIONS	O	O		
RESPECTS OTHER'S FEELINGS	O	O		

Teacher comments: William is having a difficult second quarter following the death of his mother. He has been unable to focus on schoolwork and is uncharacteristically withdrawn. He is not disruptive to the class, but he does not participate. In the first quarter, he was making slow, but steady progress in all areas. I have referred him to the guidance counselor and am recommending a reading specialist to diagnose possible learning disability with regard to reading. It is essential that he retain a stable learning environment with a school familiar with his needs. Will discuss additional resources with grandparent.

Parent/Guardian signature: \_\_\_\_\_

Date: \_\_\_\_\_

**E. JOSEPH GRANT V. SHARON AND LEONARD ELLIS**

Photo of Ellis Home



## E. JOSEPH GRANT V. SHARON AND LEONARD ELLIS

Photograph of Playground Near Recovery House





## E. JOSEPH GRANT V. SHARON AND LEONARD ELLIS

Photograph of Homes Across the Street From Recovery House



## E. JOSEPH GRANT V. SHARON AND LEONARD ELLIS

### Case Information

Court system: **District Court for Central County – Criminal System**  
Case Number: **3B034-69298347** Tracking No.: **01004888**  
Case Type: **Criminal**  
Document Type: **Statement of Charges** Issued Date: **October 6, 2005**  
Case Status: **Parole & Probation** Case disposition: **Guilty plea**

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### Defendant Information

Defendant name: **Grant, Joseph**  
Sex: **M** Height: **5'11"** Weight: **180** DOB: **March 14, 1968**  
Address: **564 West 34<sup>th</sup> Street**  
City: **Danville** State: **CU** Zip Code: **12344**

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### Charge and Disposition Information

Charge No: **001, 002, 003**  
Description: **CDS Possession/CDS Manufacture/CDS Distribution – Narcotics**  
Statute: **Criminal Law § 45-877.13, § 45-875.10**  
Incident Date: **October 4, 2005** Victim age: **N/A**

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### Disposition

Plea: **Guilty**  
Disposition date: **November 10, 2005**  
Fine: **\$0.00** Court Costs: **\$20.00** Restitution Amount: **\$0.00**  
Jail Term: Yrs. **01** Mos: **02** Days: **000**  
Suspended Term: Yrs. **01** Mos: **00** Days: **000**  
Credit Time Served: **02 Mos.**

This is a certified public record of the  
District Court of the County of Central,  
State of Confusion.

\_\_\_\_\_  
/s/  
Clerk of the Court

## E. JOSEPH GRANT V. SHARON AND LEONARD ELLIS

IN THE DISTRICT COURT FOR THE STATE OF CONFUSION

Joseph Grant,	*	
	*	
Plaintiff,	*	
	*	
v.	*	
	*	
Sharon Ellis and	*	Case No. 43213-2007
Leonard Ellis,	*	
	*	
Defendants.	*	

### CUSTODY EVALUATION REPORT

The undersigned was appointed by this court to conduct a custody evaluation in the above-referenced case. This report shall outline the assessment of and recommendations for custody of William Grant, the minor child of Joseph Grant and maternal grandchild of Sharon and Leonard Ellis. The child's mother is deceased.

### INVESTIGATION

Individual, in-person interviews were conducted with Joseph Grant, Sharon and Leonard Ellis, and Kyle and Marie Ellis (the son and daughter-in-law of Sharon and Leonard Ellis). A phone interview was conducted with Denise Worth, the sister of Joseph Grant. William was interviewed once, on December 20, 2007. William was observed at his grandparents' house. Telephone contact was made with his teacher, Alice Owens, and his school guidance counselor, Sally Beaumont.

The current court file was reviewed as well as records from a variety of medical providers for each family member and Joseph Grant's employer. The parties collected and provided personal reference forms to the custody investigator that were completed by family members and friends. Law enforcement records were requested and reviewed as provided by those agencies.

## E. JOSEPH GRANT V. SHARON AND LEONARD ELLIS

### FAMILY HISTORY

Joseph Grant and Janice Ellis were married in January 1997. William was born on May 23, 1997. The couple divorced in January of 2003. After the divorce, Janice had physical custody of William, and Joseph had visitation with William every other weekend. In 2005, Joseph was incarcerated as a result of a plea agreement after he was charged with drug possession and distribution. He served a one-year sentence. He currently lives at Recovery House in downtown Danville, where he serves as the superintendent and maintenance man.

Janice had another son with Ronald Daniels, David Daniels, who is now four years old. Janice married Ronald Daniels in August 2003. Janice was murdered by Ronald Daniels in November 2007. Ronald Daniels pled guilty and is serving a life sentence. The Ellises have been awarded legal custody of David.

### ASSESSMENT

This custody evaluator is guided by the best interests of the child standard in determining child custody. These statutory factors shall be discussed in the remainder of the report.

*1. The physical, emotional, mental, religious and social needs of the child, and the capability and desire of each parent to meet the needs of the children.*

William is ten years old and in the fourth grade at North Oaks Elementary School. He does not receive special education services, and his grades are below average in reading. He is below grade level in reading and may have mild dyslexia, although it has not been formally diagnosed. His in-class behavior is normal for a boy of his age. Following his mother's death, the school reports he has been uncharacteristically withdrawn and is falling behind on school assignments. At Sharon's request, William has been seeing a guidance counselor at his school to deal with grief issues. He has many friends at school and in his grandparents' neighborhood.

William suffers from chronic asthma, which is treated with an inhaler on an as-needed basis. The school nurse is

## E. JOSEPH GRANT V. SHARON AND LEONARD ELLIS

aware of William's health condition. His grandparents are cigarette smokers, although they do not smoke inside their house. Joseph is a non-smoker. Joseph was trained in the military in basic first aid and CPR.

William is active in playing sports, including basketball and baseball. He enjoys watching TV, bike riding, and is interested in animals. He occasionally attends church services with his father. He has a close relationship with his half-brother, David. The boys regularly play together after William gets home from school.

Joseph currently lives in a church-based home for recovering addicts. There are no other children at the property, which largely serves men. Joseph has a one-bedroom apartment. He sleeps on a pull-out sofa and the bedroom is reserved for William.

Sharon and Leonard have a single-family house in the suburbs of Danville. The other occupants are William and David.

*2. The child's preference if the child is of sufficient age and capacity to form a preference.*

William demonstrated strong emotional attachments to both Joseph (his father) and Sharon (his grandmother). It is clear that he gains much support from both and has a loving relationship with both. He expressed a preference for staying with his grandparents and younger brother, although he is happy with weekly visitation with his father.

*3. The interaction and interrelationship of the child with his parent or parents, his siblings, and any other person who may significantly affect the child's best interest.*

William has had a relationship with both his father and grandparents from birth. When his parents divorced, his time with his father was limited. There was a period of about one year when his father was incarcerated. He did not see his father during this time, although they were occasionally in touch by phone and mail. For several months prior to Joseph's incarceration, contact between William and Joseph was limited because Joseph was homeless and apparently addicted to drugs. Police records show he

## E. JOSEPH GRANT V. SHARON AND LEONARD ELLIS

was arrested, charged, and convicted with illegal use and intent to distribute crystal methamphetamines and marijuana.

William's grandparents have been a steady presence in William's life. Sharon provided in-home day care for William before he was school aged. Once William entered kindergarten, Sharon provided before and after school care for William. Sharon was a licensed day care provider before she retired.

William is strongly attached to his younger half-brother. William expressed distress at the thought of not living with David. William has lived with David since David was born. They have a normal sibling relationship.

### *4. The child's adjustment to his home, school and community.*

William is adjusted to living at the Ellis home. He expresses fear about staying at his father's home, due to a recent mugging of his father while William was present. There are no children his age near his father's home. Until his mother's death, he was doing satisfactorily in school, and the school is aware of and supportive of his academic and health challenges. The school guidance counselor is working with William and he will be tested for a possible learning disability. William's teacher reported that the school where he would be transferred if he lives with his father is a low-performing school facing possible state takeover for failure to meet No Child Left Behind benchmarks. The school has limited resources for children with reading disabilities.

### *5. The mental and physical health of all individuals involved.*

William suffers from severe asthma, although he is otherwise healthy. He has symptoms of depression consistent with recent trauma and grief. He is not receiving medical treatment for these symptoms, although the school is providing him with counseling.

Joseph is physically healthy. He has a prior history of addiction and alcoholism. He says he no longer abuses any illegal substances. Kyle Ellis, son of the Ellises,

## E. JOSEPH GRANT V. SHARON AND LEONARD ELLIS

reported that he has seen Joseph drinking alcohol at least twice at local bars within the past four months.

Sharon and Leonard are in a physical condition consistent with their age.

*6. The willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child.*

The father and grandparents each state that they will encourage visitation and involvement by the other if they are awarded custody. Despite disagreements along the way, past family history is consistent with these assertions.

*7. Other factors that the court considers pertinent.*

There are no indications of physical or sexual abuse, domestic violence, or current drug or alcohol abuse by any of the individuals involved.

### RECOMMENDATIONS

It is my professional opinion that it is in the best interests of William if his grandparents have physical custody, and he has weekend and vacation visitation with his father. His father and grandparents should share legal custody. All parties should have co-parenting counseling to help them work together cooperatively.

\_\_\_\_\_/S/\_\_\_\_\_  
Lee Forrest, ACSW  
Custody Evaluator

## **E. JOSEPH GRANT V. SHARON AND LEONARD ELLIS**

**LEE FORREST, LCSW**  
144 Professional Drive  
Danville, Confusion 12345  
444-123-4567

### **EDUCATION**

University of Maryland School of Social Work, Baltimore, MD  
M.S.W. August 1997, Concentration in gerontology

Kenyon College, Kenyon, OH  
B.A. Psychology, May 1992

Licensure: LCSW Certification, State of Confusion Certification in Identification and Reporting of Child Abuse, Certified State of Confusion Child Custody Evaluator

### **EXPERIENCE**

#### **A Place for Families Therapy Center, Washington, CU Clinical Social Worker, Jan. 2007-present**

Provide consultation and individual psychotherapy for children and adults, family and marital counseling. Provide court ordered child custody evaluations. Conduct extensive psychological testing, interviewing, detailed reports and recommendations. Testify as expert witness in court.

#### **St. Luke's Hospice Program, Edgewood, Confusion Clinical Social Worker, Jan. 2001-Jan. 2007**

Provided case management, crisis intervention, counseling at the center and in client's home. Facilitated weekly grief support group. Advocated for patients and families as member of hospice interdisciplinary team. Presented education in-services for various agencies and community groups regarding hospice-related topics.

#### **Williams Center on Aging, Franklin, Confusion Clinical Social Worker, March 1997-Dec. 2001**

Worked as part of an interdisciplinary geriatric healthcare team (with a medical doctor, and a nurse practitioner) that applied theoretical dynamics of interdisciplinary teamwork in the care of frail elderly Medicare patients to help them continue living independently in the community.

#### **Colonial Community Hospice, Easton Maryland Social Work Intern, 1996-1997**

Developed and implemented care plans to address the needs of terminally ill patients and their families. Intervened with individuals and families using theory-driven therapeutic counseling and community-based referrals. Represented hospice in weekly discharge planning meetings at local hospitals. Performed statistical and demographic analyses for quality assurance.

#### **City Hospital, Adolescent Partial Hospitalization Program, Baltimore, MD Social Work Intern, September 1995-April 1996**

Provided individual and group psychotherapy services to adolescents ages 12-18 diagnosed with major psychiatric disorders, attentional disturbances, anxiety, depression, and substance abuse.



## **E. JOSEPH GRANT V. SHARON AND LEONARD ELLIS**

Collaborated with treatment team of clinical social workers and educators, psychiatrists, psychologists, and rehabilitation counselors to develop individualized treatment plans.

### **TRAININGS AND CONFERENCES**

Lifespan Therapy for Seniors, Center for Psychological Services, Larson, CU 2000

Gerontology Today, Brighton College, Brighton, CU 1998, 1999, 2000

Training for Custody Evaluators, School of Professional Psychology, Freemont, CU 2006

### **AFFILIATIONS**

National Association of Social Workers

Gerontological Society of America 2001 – Present

Statewide Association of Child Custody Evaluators

### **INTERESTS**

Hiking, bicycling, gardening