



DIVISION ONE  
FILED: 03/28/2024  
AMY M. WOOD,  
CLERK  
BY: JT

IN THE  
**COURT OF APPEALS**  
STATE OF ARIZONA  
DIVISION ONE

IN THE MATTER OF: )  
 ) ADMINISTRATIVE ORDER  
 ) 2024-04  
ARIZONA DEPARTMENT OF CHILD )  
SAFETY'S FAILURE TO PROVIDE )  
DISCLOSURE IN CASES AFFECTED BY )  
ERRORS IN THE GUARDIAN SYSTEM )  
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Under A.R.S. § 12-120.04, the Chief Judge has the authority to exercise administrative supervision over the court.

The Arizona Department of Child Safety launched a data-management system known as "Guardian" in 2021. That system is an online portal allowing service providers in juvenile dependency cases to upload documents to the portal and disclose them to the other parties.

For the first two years the Guardian system was in place, the Department prohibited service providers from directly uploading and disclosing documents. Rather, the Department required its case managers to review and approve all service provider documents before uploading them.

In August 2023, the Department's then Director, David Lujan,<sup>1</sup> learned many service provider documents were never uploaded into

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<sup>1</sup> Mr. Lujan's title is now Cabinet Executive Officer Safety, Arizona

the Guardian system. See <https://azgovernor.gov/office-arizona-governor/news/2023/08/dcs-director-david-lujan-takes-action-right-errors-child> (last visited February 28, 2024). In response, then Director Lujan issued a news release explaining the error and declaring that “[u]rgently rectifying any harm that was caused by this system flaw is the top priority of the Department right now, and we will fully cooperate with our attorneys and the courts until every document has been disclosed.” *Id.*

At the same time, Division Chief Counsel for the Arizona Attorney General’s Office, Kirsten Wright, sent a letter to the superior court presiding judge in each Arizona county, among others. Her letter said, “[A] minimum of 3,800 juvenile dependency cases statewide may be impacted.” *Id.* The letter also said the Department identified 139 finalized adoption cases in which “incomplete disclosure” may have occurred. *Id.* In total, the Department estimated it failed to disclose about 95,000 documents.

More recently, the Arizona Attorney General’s Office sent a memorandum to each superior court juvenile presiding judge and the Committee on the Juvenile Courts, reporting on the Department’s efforts to resolve the disclosure problems. See Arizona Attorney General’s Office Memorandum Re: Department of Child Safety Portal Documents (“Memorandum”), dated March 4, 2024. The Memorandum

explained that due to continuing issues with the Guardian system, the Department may not have disclosed an additional 102,455 documents from August through November 2023. *Id.* at 1 § (I). The Memorandum also explained that the Department has prioritized correcting disclosure in all pending adoption cases and that it is working to ensure it discloses all previously undisclosed documents before pending adoptions are finalized. *Id.* at 2-3 § (II)(c). In addition, the Memorandum asserted that “[a]ny cases with portal documents that had scheduled adoptions between the dates of August, 2023 to present should have been identified prior to the adoption and disclosure or requests for appointment of counsel filed. These cases would, as such, need no further intervention.” Memorandum, at 6 § (V)(c)(ii).

Meanwhile, in September 2023, the Department began filing notices in pending appeals impacted by the Guardian system error. The court stayed those appeals, where appropriate, and revested jurisdiction in the superior court so it could rule on any motions made by the parties about the undisclosed documents.

In several instances, the Department also notified the court about undisclosed documents in post-mandate cases. In those notices, the Department said it would obtain and review the undisclosed documents, attempt to disclose those documents to all parties entitled to them (including parents whose parental rights

had been terminated in cases in which the undisclosed documents pre-date the termination of their parental rights), and file a notice of disclosure in the superior court.

In some post-mandate cases, the court recently received information showing the Department failed to notify the superior court of its efforts to identify and disclose these documents. This information is inconsistent with the notices the Department filed in this court, and calls into question the accuracy of the Department's assertion that it has identified and resolved all Guardian-system disclosure problems in adoptions finalized from August 2023 to present. See Memorandum, at 6 § (V)(c)(ii). Given this information and its potential to affect the permanency of children in post-mandate cases, this Order imposes specific deadlines for the Department to provide notice to this Court and the superior court about the status of the post-mandate cases affected by the Guardian system.

**IT THEREFORE IS ORDERED** requiring the Department to transmit to this Court by April 29, 2024, a list of every post-mandate case affected by the Guardian system disclosure error. For each case listed, the Department shall: (1) identify the undisclosed documents, (2) report whether the Department has disclosed those documents to all parties entitled to them, and (3) say whether it

filed a notice about the previously-undisclosed documents in the superior court.

**IT FURTHER IS ORDERED** if the Department fails to timely transmit the list of all post-mandate cases, or fails to comply with this Order, this court may place the matter on the court's Order to Show Cause Calendar to give the Department an opportunity to show cause, if any exists, why this Court should not hold it in civil contempt and imposes fines and other sanctions until the Department files the list as required by this Order and to otherwise ensure compliance with this Order.

**IT FURTHER IS ORDERED** the court may take any other actions it deems appropriate in the circumstances.

**IT IS FURTHER ORDERED** the Clerk of the Court shall create an Administrative Juvenile case within the court's case management system for filings under this Order and provide that case number to the Department.

**IT FURTHER IS ORDERED** the Clerk of the Court shall distribute this Order to Kristin K. Mayes, Arizona Attorney General; Kirsten Wright, Assistant Attorney General; and David Lujan, Cabinet Executive Officer, Arizona Department of Child Safety.

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David B. Gass, Chief Judge