

**CERTIFIED FOR PUBLICATION**  
**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**  
**FIFTH APPELLATE DISTRICT**

In re JOSIAH Z., et al., Persons Coming Under  
the Juvenile Court Law.

KERN COUNTY DEPARTMENT OF  
HUMAN SERVICES,

Plaintiff and Respondent,

v.

JOSIAH Z., et al.,

Appellants.

F044121

(Super. Ct. Nos. JD097344  
& JD097345)

**ORDER MODIFYING OPINION  
AND DENYING REHEARING  
[NO CHANGE IN JUDGMENT]**

THE COURT:

It is ordered that the opinion filed herein on May 19, 2004, be modified as follows:

1. On page 2, second sentence of the first full paragraph, the word “dismiss” is deleted and the words “seek dismissal of” are inserted in its place so that the sentence reads:

The question is whether the children’s appellate counsel has the authority to seek dismissal of their appeal based on her analysis of their best interests.

2. On page 3, line 7 of the first full paragraph of the “DISCUSSION,” the sentence beginning “We in turn” is deleted and the following two sentences are inserted in its place:

Because counsel’s request involved the expenditure of taxpayer funds, we ordered briefing on appellate counsel’s authority to seek dismissal of her minor clients’ appeal based on her analysis of their best interests. In other words, if appellate counsel was not authorized to seek dismissal of her minor clients’

appeal based on her analysis of their best interests, there was no good cause shown to grant her request for travel funds.

3. On page 9, following the first full paragraph, the following paragraph is inserted:

This court is sincerely concerned about the welfare of the dependent children who appear before us. However, it is not our role, nor that of appellate counsel, to evaluate their best interests. Instead, it is the dependency court judge who is charged with the responsibility of analyzing and determining the best interests of dependent children. (See e.g. §§ 361.3, subd. (a)(1); 361.5, subd. (c); & 366.26, subd. (c)(4)(A).)

4. The first sentence of the paragraph commencing at the bottom of page 9 with the words “In the absence” is deleted and the following sentence is inserted in its place:

In the absence of any statutory or case law supporting her claim of authority to seek dismissal of her clients’ appeal, this court must deny counsel’s request for travel funds to evaluate their best interests.

There is no change in the judgment. Appellant’s petition for rehearing is denied.

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Ardaiz, P.J.

WE CONCUR:

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Vartabedian, J.

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Cornell, J.