

SUPREME COURT OF CONNECTICUT

In re Gabriella A., 319 Conn. 775

127 A.3d 948 (2015) · Decided December 15, 2015

SUMMARY

This document is a dissenting opinion in a Connecticut Supreme Court parental-rights termination case. Robinson, J., joined by Zarella, J., disagreed with the conclusion that the Department of Children and Families made reasonable efforts to reunify the respondent with Gabriella A., emphasizing inadequate initial therapy, the referral to trauma-focused treatment shortly before the termination petition, and the lack of inquiry into the respondent's progress. The dissent also questioned whether the petitioner proved that the respondent was unable to benefit from reunification services.

CASE DETAILS

COURT	Supreme Court of Connecticut
WRITING FOR THE COURT	Robinson, J.; Zarella, J.
JURISDICTION	Connecticut
DECIDED	December 15, 2015
DISPOSITION	other
PROCEDURAL POSTURE	The Commissioner of Children and Families petitioned to terminate the respondent mother's parental rights. The trial court found that the petitioner had made reasonable efforts to reunify the respondent with Gabriella and terminated parental rights; the Appellate Court upheld that determination. This opinion is a dissent from the Connecticut Supreme Court majority's disposition.
STANDARD OF REVIEW	The ultimate determination whether the petitioner made reasonable efforts at reunification, or whether the respondent was unable to benefit from reunification services, is reviewed for evidentiary sufficiency. Underlying factual findings are reviewed for clear error.
PRECEDENTIAL VALUE	dissenting
PARTIES	Commissioner of Children and Families v. Respondent mother

TOPICS

termination of parental rights

parental rights

family law procedure

due process

fourteenth amendment

PRACTICE AREAS

family law

termination of parental rights

constitutional law

QUESTIONS PRESENTED

1. Whether the petitioner made reasonable efforts to reunify the respondent with Gabriella when it initially provided inadequate therapy, later referred the respondent for trauma-focused therapy, and filed the termination petition after approximately two months of that therapy without investigating the respondent's progress.
2. Whether the petitioner proved by clear and convincing evidence that the respondent was unable to benefit from reunification services under those circumstances.
3. What standard of review applies to the reasonable-efforts and inability-to-benefit determinations.

HOLDINGS

1. The dissent would hold that the petitioner's efforts were unreasonable because it provided inadequate treatment for approximately a year, relied on the respondent's lack of progress in that inadequate treatment, and filed the termination petition without determining whether the respondent was benefiting from newly initiated trauma therapy.
2. The dissent would hold that the petitioner failed to prove by clear and convincing evidence that the respondent was unable to benefit from reunification services because the respondent had received appropriate trauma therapy for only approximately two months when the petition was filed.
3. The dissent applies evidentiary-sufficiency review to the ultimate reasonable-efforts determination and clear-error review to the factual findings underlying it.

KEY QUOTATIONS

“reasonable efforts means doing everything reasonable, not everything possible.”

“The respondent’s substantial compliance with reunification services further belies the reasonableness of the petitioner’s actions.”

“Because the petitioner’s efforts were unreasonable, we cannot determine whether the respondent could have benefited from reasonable efforts.”

“With such an important constitutional right at stake, I cannot agree that the petitioner proved, by clear and convincing evidence, that the respondent was unable to benefit from reunification services on these facts.”

FACTUAL BACKGROUND

The respondent had an extensive history of childhood trauma, including sexual abuse, loss, and abandonment. Although the petitioner's evaluators identified the need for trauma-focused therapy, the respondent initially received treatment that did not adequately address that trauma. After the respondent began appropriate trauma therapy and was reportedly attending consistently and making progress, the petitioner filed the termination petition without obtaining a progress report from the new therapist.

PROCEDURAL HISTORY

The petitioner referred the respondent for mental-health, substance-abuse, parenting, and case-management services and later filed a termination petition. The trial court concluded that the petitioner had made reasonable reunification efforts and that the respondent had not achieved sufficient rehabilitation. The Appellate Court affirmed, holding that the petitioner's efforts were reasonable in light of the entire record. Justice Robinson, joined by Justice Zarella, disagreed.

DISPOSITION

other

CASES CITED

- In re Gabriella A., 154 Conn. App. 177, 184-88, 104 A.3d 805 (2014)
- In re Samantha C., 268 Conn. 614, 632, 847 A.2d 883 (2004)
- In re Jorden R., 293 Conn. 539, 552-53, 979 A.2d 469 (2009)
- In re Shane M., 318 Conn. 569, 587-88, 122 A.3d 1247 (2015)
- In re Alexander T., 81 Conn. App. 668, 672-73, 841 A.2d 274 (2004), cert. denied, 268 Conn. 924, 848 A.2d 472 (2004)
- In re Joseph M., 158 Conn. App. 849, 855-58, 120 A.3d 1271 (2015)
- In re Melody L., 290 Conn. 131, 148-49, 962 A.2d 81 (2009)
- State v. Elson, 311 Conn. 726, 746-47, 91 A.3d 862 (2014)
- In re Davonta V., 285 Conn. 483, 494-95, 940 A.2d 733 (2008)
- In re Davonta V., 98 Conn. App. 42, 48, 907 A.2d 126 (2006)
- In re Christine F., 6 Conn. App. 360, 368, 505 A.2d 734 (1985), cert. denied, 199 Conn. 808, 508 A.2d 769 (1986)
- Fish v. Fish, 285 Conn. 24, 41, 939 A.2d 1040 (2008)
- In re Devon B., 264 Conn. 572, 584, 825 A.2d 127 (2003)
- Santosky v. Kramer, 455 U.S. 745, 753, 102 S. Ct. 1388, 71 L. Ed. 2d 599 (1982)
- Lehrer v. Davis, 214 Conn. 232, 237, 571 A.2d 691 (1990)
- In re Jason R., 306 Conn. 438, 464-65, 51 A.3d 334 (2012)
- Troxel v. Granville, 530 U.S. 57, 65, 120 S. Ct. 2054, 147 L. Ed. 2d 49 (2000)
- Roth v. Weston, 259 Conn. 202, 218, 789 A.2d 431 (2002)
- In re Jason R., 129 Conn. App. 746, 774, 23 A.3d 18 (2011), aff'd, 306 Conn. 438, 51 A.3d 334 (2012)
- In re Juvenile Appeal (Anonymous), 181 Conn. 638, 640, 436 A.2d 290 (1980)
- In re Destiny D., 86 Conn. App. 77, 79-80, 83-84, 859 A.2d 973 (2004), cert. denied, 272 Conn. 911, 863 A.2d 702 (2004)
- In re Ebony H., 68 Conn. App. 342, 346, 789 A.2d 1158 (2002)
- In re Natalya C., 946 A.2d 198, 204 (R.I. 2008)

