

COURT OF APPEALS OF TEXAS, FOURTEENTH DISTRICT

In the Interest of G.W.P.

In re G.W.P. · No. 14-08-00035-CV · Decided August 20, 2009

SUMMARY

The Fourteenth Court of Appeals of Texas affirmed the termination of Beverly Powell’s parental rights to G.W.P. The court held that Powell failed to preserve her factual-sufficiency challenge because her statement of appellate points did not specifically challenge each independent termination ground or the child’s best-interest finding as required by Texas Family Code section 263.405(i).

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                    |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Court of Appeals of Texas, Fourteenth District                                                                                                                                                                                                                                     |
| WRITING FOR THE COURT | Leslie B. Yates; Justice Guzman; Justice Sullivan                                                                                                                                                                                                                                  |
| JURISDICTION          | Texas                                                                                                                                                                                                                                                                              |
| DECIDED               | August 20, 2009                                                                                                                                                                                                                                                                    |
| DOCKET                | 14-08-00035-CV                                                                                                                                                                                                                                                                     |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                           |
| PROCEDURAL POSTURE    | Appeal from an order terminating Beverly Powell's parental rights. Powell challenged the factual sufficiency of the evidence, and the appellate court considered whether that issue was preserved under Texas Family Code section 263.405(i).                                      |
| STANDARD OF REVIEW    | A factual-sufficiency challenge in a parental-rights termination case may be reviewed only if it was specifically presented in a timely statement of appellate points or in a statement combined with a motion for new trial, as required by Texas Family Code section 263.405(i). |
| PRECEDENTIAL VALUE    | Published memorandum opinion; precedential status beyond the information stated in the source is not independently verified.                                                                                                                                                       |
| PARTIES               | Beverly Powell v. In the Interest of G.W.P.                                                                                                                                                                                                                                        |

TOPICS

- termination of parental rights
- parental rights
- preservation of error
- appellate procedure
- family law procedure

## PRACTICE AREAS

family law

parental rights

termination of parental rights

appellate procedure

## QUESTIONS PRESENTED

1. Whether Powell preserved her factual-sufficiency challenge to the termination order by specifically identifying the challenged statutory predicate findings and best-interest finding in her statement of appellate points under Texas Family Code section 263.405(i).

## HOLDINGS

1. A statement of appellate points does not preserve a factual-sufficiency challenge to a parental-rights termination order under Texas Family Code section 263.405(i) unless it specifically challenges each independently sufficient statutory predicate act found by the trial court or specifically challenges the finding that termination is in the child's best interest. Powell's general assertions of no evidence, legal insufficiency, and factual insufficiency, together with an unclear reference to her service plan, did not satisfy that requirement.
2. Because Powell failed to preserve her sole appellate issue, the court overruled that issue and affirmed the trial court's judgment.

## KEY QUOTATIONS

*“The appellate court may not consider any issue that was not specifically presented to the trial court in a timely filed statement of the points on which the party intends to appeal or in a statement combined with a motion for new trial.”*

## FACTUAL BACKGROUND

The trial court terminated Beverly Powell's parental rights to G.W.P. The court found that Powell had independently engaged in three acts supporting termination, including endangering the child, engaging in or exposing the child to endangering conduct, and failing to comply with a court order establishing the actions necessary to obtain the child's return. The court also found that termination was in G.W.P.'s best interest.

## PROCEDURAL HISTORY

The 315th District Court of Harris County terminated Powell's parental rights to G.W.P. The trial court found that Powell committed three independently sufficient statutory predicate acts and that termination was in the child's best interest. Powell filed a statement of appellate points and appealed, but the Fourteenth Court of Appeals held that her factual-sufficiency challenge was not stated with sufficient specificity and affirmed.

## DISPOSITION

affirmed

## CASES CITED

- In re J.L., 163 S.W.3d 79, 84 (Tex. 2005)
- Adams v. Tex. Dep't of Family & Protective Servs., 236 S.W.3d 271, 273, 276-78 (Tex. App.—Houston [1st Dist.] 2007, no pet.)
- In re S.T., 263 S.W.3d 394, 398-99 (Tex. App.—Waco 2008, pet. denied)
- In re J.W.H., 222 S.W.3d 661, 662 (Tex. App.—Waco 2007, no pet.)