

SUPREME COURT OF FLORIDA

D.M., etc. v. M.D., etc.

272 So. 3d 1229 (Fla. 2019) · No. No. SC18-1372 · Decided June 6, 2019

SUMMARY

The Florida Supreme Court discharged jurisdiction and dismissed its review of a Fifth District Court of Appeal decision concerning the denial of a petition to terminate parental rights in connection with a stepparent adoption. The court concluded that the asserted conflict was not apparent on the face of the district court’s opinion and therefore did not establish jurisdiction. A special concurrence and dissent addressed whether the trial court’s failure to make required written findings was harmless error.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Canady, C.J.; Polston, J.; Luck, J.; Muñiz, J.; Lawson, J.; Lagoa, J.; Labarga, J.
JURISDICTION	Florida
DECIDED	June 6, 2019
DOCKET	No. SC18-1372
DISPOSITION	dismissed
PROCEDURAL POSTURE	D.M. sought review in the Supreme Court of Florida of a Fifth District Court of Appeal decision affirming the denial of her petition to terminate M.D.'s parental rights in connection with a stepparent adoption proceeding. The Supreme Court initially accepted jurisdiction based on alleged express and direct conflict, then determined that jurisdiction had been improvidently granted.
STANDARD OF REVIEW	The Supreme Court applied the express-and-direct-conflict jurisdictional standard under article V, section 3(b)(3), of the Florida Constitution. The opinions also discuss harmless-error review of the trial court's failure to make statutorily required written findings.
PRECEDENTIAL VALUE	Published Florida Supreme Court decision; precedential on the express-and-direct-conflict jurisdictional issue. The special concurrence and dissent's merits analyses are not majority holdings.
PARTIES	D.M. v. M.D.

TOPICS

appellate jurisdiction

family law procedure

termination of parental rights

parental rights

harmless error

PRACTICE AREAS

Family law

Appellate jurisdiction

Parental rights

QUESTIONS PRESENTED

1. Whether the Supreme Court of Florida had jurisdiction to review the Fifth District's decision under the express-and-direct-conflict jurisdiction provision of article V, section 3(b)(3), Florida Constitution.
2. Whether the Fifth District's treatment of the trial court's failure to make statutorily required written findings as harmless error created an express and direct conflict with another Florida appellate decision.

HOLDINGS

1. The Supreme Court of Florida lacked jurisdiction because no express and direct conflict was apparent on the face of the Fifth District's opinion.
2. Because jurisdiction was improvidently granted, the Court discharged jurisdiction and dismissed the review proceeding.

KEY QUOTATIONS

"After further consideration, we conclude that jurisdiction was improvidently granted. Accordingly, we hereby discharge jurisdiction and dismiss this review proceeding." (272 So. 3d at 1229)

"To the extent there is such conflict, it is not apparent on the face of the Fifth District's opinion and, therefore, cannot serve as a basis for our jurisdiction." (272 So. 3d at 1230)

FACTUAL BACKGROUND

D.M. sought termination of M.D.'s parental rights concerning their two children in conjunction with a stepparent adoption proceeding. She relied on M.D.'s ninety-seven-month prison sentence followed by ten years of sex-offender probation, alleged abandonment, and the asserted harm and best interests of the children. After an evidentiary hearing, the trial court denied the petition but did not make the written findings required by section 63.089(5), Florida Statutes.

PROCEDURAL HISTORY

D.M. petitioned the trial court to terminate M.D.'s parental rights based principally on his lengthy incarceration and alleged abandonment. After an evidentiary hearing, the trial court denied the petition without making the written findings required by section 63.089(5), Florida Statutes. The Fifth District affirmed, concluding that the omission was harmless because appellate review was not hampered. The Supreme Court discharged jurisdiction and dismissed the review proceeding.

DISPOSITION

dismissed

CASES CITED

- D.M. v. M.D., 247 So. 3d 713 (Fla. 5th DCA 2018)
- Reaves v. State, 485 So. 2d 829, 830 (Fla. 1986)
- Callwood v. Callwood, 221 So. 3d 1198, 1201 (Fla. 4th DCA 2017)
- Dep't of Children & Families v. J.S., 183 So. 3d 1177, 1183 (Fla. 4th DCA 2016)
- Kennedy v. Kennedy, 60 So. 3d 466, 469 (Fla. 2d DCA 2011)
- Farley v. Farley, 800 So. 2d 710, 711-12 (Fla. 2d DCA 2001)
- Shoffner v. Shoffner, 744 So. 2d 1157, 1157-58 (Fla. 1st DCA 1999)
- Staton v. Staton, 710 So. 2d 744, 745 (Fla. 2d DCA 1998)
- Special v. W. Boca Med. Ctr., 160 So. 3d 1251, 1256 (Fla. 2014)
- Williams v. Williams, 923 So. 2d 606, 608 (Fla. 2d DCA 2006)

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