

SUPREME COURT OF VERMONT

In re E.A.

183 Vt. 527 (2007) · Decided November 15, 2007

SUMMARY

The Vermont Supreme Court held that the Vermont Adoption Act’s twenty-one-day revocation provision does not apply to parental-rights terminations entered in a juvenile CHINS proceeding. Because the parents voluntarily and knowingly agreed to terminate their parental rights under the juvenile statutes, and those statutes provide no parallel revocation right, the court affirmed the termination orders.

CASE DETAILS

COURT	Supreme Court of Vermont
WRITING FOR THE COURT	Manley, J.; Johnson; Manley
JURISDICTION	Vermont
DECIDED	November 15, 2007
DISPOSITION	affirmed
PROCEDURAL POSTURE	Parents appealed family court orders terminating their parental rights to two children after they voluntarily agreed to termination in a juvenile CHINS proceeding.
STANDARD OF REVIEW	De novo review applies to the legal question whether the parents could revoke their termination decisions, including construction of the Vermont Adoption Act and juvenile-proceeding statutes.
PRECEDENTIAL VALUE	precedential
PARTIES	Mother, Father v. State of Vermont

TOPICS

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

PRACTICE AREAS

- family law
- termination of parental rights
- adoption

QUESTIONS PRESENTED

1. Whether the Vermont Adoption Act's twenty-one-day revocation provision applies to parental-rights termination agreements entered in a juvenile CHINS proceeding.
2. Whether the parents' pro se petitions constituted revocations of voluntary relinquishments under the Vermont Adoption Act.
3. Whether the Vermont Adoption Act's revocation period should be tolled because the parents allegedly were advised that their relinquishments were irrevocable.

HOLDINGS

1. The Vermont Adoption Act does not apply to parental-rights termination proceedings arising under the protective juvenile statutes in chapter 55 of Title 33.
2. The parents had no statutory basis to revoke the termination orders because the Vermont Adoption Act did not apply and the juvenile statutes contain no parallel revocation provision.

KEY QUOTATIONS

"We conclude that the VAA is not applicable to this juvenile proceeding, and affirm the termination orders."
(183 Vt. at 527)

"Thus, the YAA's provision allowing a parent who is releasing a child for adoption a period in which to revoke his or her decision does not apply, and there is no parallel provision in the juvenile statutes for revoking a termination decision." (183 Vt. at 529)

FACTUAL BACKGROUND

The family court found the children were CHINS based on the father's history of domestic violence and substance abuse and the mother's parenting deficits. After the children were returned to foster care following an incident in which the father physically abused an older son, the Department for Children and Families changed the case plan to adoption and petitioned to terminate parental rights. At the termination hearing, both parents knowingly and voluntarily agreed to termination after questioning by the court, but later claimed they had been pressured or misled and sought to revoke their agreements.

PROCEDURAL HISTORY

The family court found the children to be children in need of care or supervision, granted the Department for Children and Families custody, and later changed the case plan to adoption. At a scheduled termination hearing, both parents voluntarily signed agreements terminating their parental rights, and the family court entered termination orders. The parents subsequently filed pro se petitions seeking to invalidate or revoke the termination decisions; the family court treated the petitions as notices of appeal, and the Supreme Court of Vermont affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Margaret Susan P., 169 Vt. 252, 262, 733 A.2d 38, 46 (1999)

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