

SUPREME COURT OF TEXAS

In the Interest of J.F.C., A.B.C., and M.B.C., Minor Children

96 S.W.3d 256 (Tex. 2002) · No. No. 01-0571 · Decided December 31, 2002

SUMMARY

The Texas Supreme Court reviewed a parental-rights termination judgment involving three minor children. It held that although the jury charge omitted the children's best-interest requirement in material respects, Texas Rule of Civil Procedure 279 supplied an express or deemed finding supporting termination, and the omission did not constitute reversible fundamental error or violate due process. The court also addressed clear-and-convincing-evidence standards of appellate review and ineffective assistance of counsel, reversed the court of appeals, and rendered judgment terminating the parent-child relationships.

CASE DETAILS

COURT	Supreme Court of Texas
WRITING FOR THE COURT	Justice Owen; Chief Justice Phillips; Justice Hecht; Justice Jefferson; Justice Smith
JURISDICTION	Texas
DECIDED	December 31, 2002
DOCKET	No. 01-0571
DISPOSITION	reversed
PROCEDURAL POSTURE	After a jury trial, the trial court terminated both parents' rights to three children. The court of appeals reversed and remanded for a new trial, holding that omission of the children's best-interest requirement from material portions of the jury charge was fundamental error that could be raised for the first time on appeal. The Texas Supreme Court granted review.
STANDARD OF REVIEW	For legal sufficiency under a constitutionally required clear-and-convincing-evidence burden, the reviewing court considers all evidence in the light most favorable to the finding and determines whether a reasonable factfinder could have formed a firm belief or conviction that the finding was true. For factual sufficiency, the court considers whether disputed evidence that a reasonable factfinder could not have credited in favor of the finding is so significant that no reasonable factfinder could have formed a firm belief or conviction.

PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Texas Department of Protective and Regulatory Services v. The parents of J.F.C., A.B.C., and M.B.C.

TOPICS

[termination of parental rights](#)
[family law procedure](#)
[due process](#)
[appellate procedure](#)
[evidence](#)

PRACTICE AREAS

[family law](#)
[constitutional law](#)
[civil procedure](#)
[appellate procedure](#)
[evidence](#)

QUESTIONS PRESENTED

1. Whether the omission of the children's best-interest requirement from material portions of the jury charge required reversal when the parents did not object.
2. Whether Texas Rule of Civil Procedure 279 required the omitted best-interest finding to be supplied as an express or deemed finding supporting the judgment.
3. Whether applying Rule 279 to supply the omitted finding violated federal due process or the Texas Constitution's due course of law provision.
4. Whether the broad-form submission failed to require the same ten jurors to agree on a statutory predicate ground and the children's best interest.
5. Whether the parents could obtain a new trial based on alleged ineffective assistance of counsel.
6. Whether the evidence was legally sufficient to support the best-interest finding and whether the parents' other evidentiary and sufficiency complaints required reversal.

HOLDINGS

1. Although the jury charge was erroneous because it omitted the children's best interest as a prerequisite for termination in material portions, Texas Rule of Civil Procedure 279 required the omitted finding to be supplied because the trial court made an express finding, or alternatively a deemed finding existed, that termination was in the children's best interest.
2. The concept of fundamental error cannot be used to circumvent Rule 279 when a party fails to object to the omission of an element of a claim from the jury charge.
3. Applying Rule 279 to deem a supported best-interest finding in a parental-termination case does not violate the Due Process Clause of the United States Constitution or the due course of law provision of the Texas Constitution.
4. In parental-termination cases, legal sufficiency review must determine whether a reasonable factfinder could form a firm belief or conviction about the truth of the allegations, rather than applying the traditional any-scintilla standard.

5. The court did not reach the parents' constitutional challenge to the broad-form submission because the evidence conclusively established that each parent engaged in conduct described by Texas Family Code section 161.001(1)(O), making any alleged submission error harmless.
6. Assuming without deciding that ineffective assistance could provide a basis for setting aside a parental-termination judgment, the parents did not establish ineffective assistance under the stringent Strickland standard.

KEY QUOTATIONS

“Although the trial court's charge was erroneous because it omitted the children's best interest as a prerequisite for termination in material parts of the charge, Texas Rule of Civil Procedure 279 requires us to supply the omitted finding in support of the judgment because there is either an express or deemed finding by the trial court that termination is in the children's best interest.” (259)

“In a legal sufficiency review, a court should look at all the evidence in the light most favorable to the finding to determine whether a reasonable trier of fact could have formed a firm belief or conviction that its finding was true.” (266)

“Rule 279 requires a reviewing court to supply an omitted finding in support of the trial court's judgment where, as here, there was no objection to the omission in the trial court, and some (in this case clear and convincing) evidence supports the omitted finding.” (275)

FACTUAL BACKGROUND

The three children were removed from their parents' home after evidence of parental drug use, domestic violence, and physical abuse of one child. The parents continued to use drugs, engage in violent domestic conflicts, and fail to comply with numerous court-ordered services and requirements after removal, including child support, parenting classes, anger-control classes, psychiatric evaluations, and drug testing. At trial, experts and other witnesses testified that the parents' conduct and home environment harmed the children and that termination was in the children's best interest.

PROCEDURAL HISTORY

The children were removed from the parents' home in October 1997, and the Department was appointed temporary managing conservator. After the Department amended its petition to seek termination, a jury trial was held in February 1999, and the trial court entered a termination judgment in March 1999. The court of appeals reversed and remanded; the Texas Supreme Court reversed the court of appeals and rendered judgment terminating the parent-child relationships.

DISPOSITION

reversed

REMAND INSTRUCTIONS

No remand was ordered. The court reversed the court of appeals and rendered judgment terminating the parent-child relationships between each child and both parents.

CASES CITED

- In re G.M., 596 S.W.2d 846 (Tex. 1980)
- In re C.H., 89 S.W.3d 17 (Tex. 2002)
- Santosky v. Kramer, 455 U.S. 745 (1982)
- Jackson v. Virginia, 443 U.S. 307 (1979)
- Strickland v. Washington, 466 U.S. 668 (1984)
- Texas Department of Human Services v. E.B., 802 S.W.2d 647 (Tex. 1990)
- Ramos v. Frito-Lay, Inc., 784 S.W.2d 667 (Tex. 1990)
- Cielo Dorado Development, Inc. v. Certainteed Corp., 744 S.W.2d 10 (Tex. 1988)
- Crown Life Insurance Co. v. Casteel, 22 S.W.3d 378 (Tex. 2000)
- Texas Association of Business v. Texas Air Control Board, 852 S.W.2d 440 (Tex. 1993)
- In re C.O.S., 988 S.W.2d 760 (Tex. 1999)
- Ramsey v. Dunlop, 205 S.W.2d 979 (Tex. 1947)