

SUPREME COURT OF NORTH DAKOTA

In the Interest of D.C.S.H.C.

2007 ND 102 · No. Nos. 20060337, 20060338 · Decided June 26, 2007

SUMMARY

The Supreme Court of North Dakota affirmed the termination of K.C.'s parental rights, holding that her appearance by telephone while incarcerated in Minnesota provided a meaningful opportunity to be heard. The court applied a case-by-case balancing of the Mathews v. Eldridge factors and concluded that denying a continuance for an in-person appearance did not violate procedural due process.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Sandstrom, Justice; Dale V. Sandstrom; Daniel J. Crothers; Mary Muehlen Maring; Carol Ronning Kapsner; Gerald W. VandeWalle, C.J.
JURISDICTION	North Dakota
DECIDED	June 26, 2007
DOCKET	Nos. 20060337, 20060338
DISPOSITION	affirmed
PROCEDURAL POSTURE	K.C. appealed the juvenile court's order adopting the judicial referee's findings and terminating her parental rights after the referee denied her request to postpone the termination hearing so she could appear in person from an out-of-state prison.
STANDARD OF REVIEW	Denial of a continuance is reviewed for abuse of discretion. Procedural due process in the circumstances of a prisoner's limited participation in a termination proceeding is evaluated under the three-part balancing test from Mathews v. Eldridge.
PRECEDENTIAL VALUE	Published North Dakota Supreme Court opinion; precedential.
PARTIES	K.C. v. Tamera Ressler, L.S.W.

TOPICS

- termination of parental rights
- parental rights
- procedural due process
- family law procedure
- appellate procedure

PRACTICE AREAS

family law

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether the judicial referee abused its discretion by denying K.C.'s request to continue the termination-of-parental-rights hearing so she could appear in person.
2. Whether K.C.'s intermittent participation by telephone, while incarcerated in another state, denied her procedural due process.

HOLDINGS

1. A prisoner does not have a constitutional right to appear in person at a termination-of-parental-rights hearing; the right may be satisfied through counsel and an alternative meaningful opportunity to participate, including a telephone appearance.
2. The denial of K.C.'s request for a continuance was not an abuse of discretion.
3. K.C. was afforded a meaningful opportunity to be heard, and her intermittent telephone participation did not violate procedural due process.

KEY QUOTATIONS

“The fundamental requirement of due process is the opportunity to be heard ‘at a meaningful time and in a meaningful manner.’” (¶ 11)

“Whether a parent-prisoner's rights to procedural due process are satisfied by a limited appearance by telephone does not lend itself to a bright-line rule; instead, a case-by-case balancing of the Eldridge factors must be conducted to ensure that notice and a meaningful opportunity to be heard exist in every case in which a parent-prisoner's appearance is so limited.” (¶ 28)

FACTUAL BACKGROUND

D.C.S.H.C. was born while the mother was involuntarily committed and the father was incarcerated, and the child was immediately removed from parental custody after a deprivation petition. K.C. was later incarcerated in Minnesota when the termination hearing was scheduled in North Dakota. Although Minnesota officials did not transport her for an in-person appearance, she appeared by telephone during portions of the hearing, was represented by appointed counsel, and testified on the final day about her circumstances and plans for caring for the child.

PROCEDURAL HISTORY

The child was removed from the parents' custody after a deprivation proceeding. A judicial referee conducted a termination-of-parental-rights hearing while K.C. was incarcerated in Minnesota; she participated by telephone, although her participation was intermittent, and the referee terminated the parents' rights. The juvenile court adopted the referee's order and concluded K.C. had received a full and fair hearing. The North Dakota Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Hilgers, 2004 ND 160, ¶ 38, 685 N.W.2d 109
- State v. Stoppleworth, 2003 ND 137, ¶ 6, 667 N.W.2d 586
- In re Adoption of J.M.H., 1997 ND 99, ¶¶ 18-19, 564 N.W.2d 623
- Walbert v. Walbert, 1997 ND 164, ¶¶ 8-9, 567 N.W.2d 829
- St. Claire v. St. Claire, 2004 ND 39, ¶¶ 6, 8, 675 N.W.2d 175
- Interest of D.M., 2007 ND 62, ¶ 17, 730 N.W.2d 604
- Mathews v. Eldridge, 424 U.S. 319, 333, 335 (1976)
- Armstrong v. Manzo, 380 U.S. 545, 552 (1965)
- Adoption of S.A.L., 2002 ND 178, ¶¶ 10-11, 652 N.W.2d 912
- Santosky v. Kramer, 455 U.S. 745, 747-48, 758-62, 766, 769 (1982)
- Lassiter v. Department of Social Services, 452 U.S. 18, 26-27 (1981)
- Stanley v. Illinois, 405 U.S. 645, 651 (1972)
- Adoption of J.W.M., 532 N.W.2d 372, 376-80 (N.D. 1995)
- State v. Valentine, 190 Ariz. 107, 945 P.2d 828, 831 (Ct. App. 1997)