

DISTRICT OF COLUMBIA COURT OF APPEALS

In re Ta.L.; In re A.L.; In re Petition of R.W. & A.W.; In re Petition of E.A.; A.H. and T.L., Appellants

149 A.3d 1060 (D.C. 2016) · No. Nos. 11-FS-1217, 11-FS-1218, 11-FS-1255, 11-FS-1256, 11-FS-1257, 11-FS-1258, 11-FS-1259 & 11-FS-1260 · Decided December 8, 2016

SUMMARY

The District of Columbia Court of Appeals, sitting en banc, affirmed the Superior Court’s judgment granting foster parents’ adoption petition for two children and denying the adoption petition of the children’s aunt. The court held that biological parents must have an opportunity to contest and appeal a permanency-goal change from reunification to adoption, but concluded that the adoption by the foster parents was supported by clear and convincing evidence and was in the children’s best interests.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Eric T. Washington, Chief Judge; Anna Blackburne-Rigsby, Associate Judge; Stephen Glickman, Associate Judge; John Fisher, Associate Judge; Phyllis D. Thompson, Associate Judge; Corinne Beckwith, Associate Judge; Catharine Easterly, Associate Judge; Roy McLeese, Associate Judge; Inez Smith Reid, Senior Judge
JURISDICTION	District of Columbia
DECIDED	December 8, 2016
DOCKET	Nos. 11-FS-1217, 11-FS-1218, 11-FS-1255, 11-FS-1256, 11-FS-1257, 11-FS-1258, 11-FS-1259 & 11-FS-1260
DISPOSITION	affirmed
PROCEDURAL POSTURE	Biological parents and a maternal aunt appealed from the Superior Court's orders granting foster parents' petitions to adopt two neglected children and denying the aunt's competing adoption petition. The case was reheard en banc after the court vacated its prior opinion.

STANDARD OF REVIEW	Adoption orders are reviewed for abuse of discretion. The appellate court determines whether the trial court exercised its discretion within the range of permissible alternatives based on relevant factors and no improper factors, applied the correct standard of proof, and supported its decision with substantial reasoning drawn from a firm factual foundation.
PRECEDENTIAL VALUE	published precedential en banc opinion
PARTIES	A.H., T.L., E.A. v. R.W., A.W., District of Columbia

TOPICS

family law procedure adoption parental rights procedural due process appellate procedure

PRACTICE AREAS

family law constitutional law appellate procedure child welfare adoption

QUESTIONS PRESENTED

1. Whether a trial court's change of a neglect proceeding's permanency goal from reunification to adoption is immediately appealable.
2. What procedural protections due process requires before a permanency goal may be changed from reunification to adoption.
3. Whether a finding of parental unfitness is required before parental rights may be terminated through a termination proceeding or adoption proceeding.
4. Whether the trial court gave sufficient weight to the biological parents' preference for the aunt as the adoptive caregiver.
5. Whether clear and convincing evidence supported granting the foster parents' adoption petition over the aunt's competing petition.

HOLDINGS

1. A trial court's change of a neglect proceeding's permanency goal from reunification to adoption is an appealable final order subject to immediate appellate review.
2. Before changing a permanency goal from reunification to adoption over a parent's objection, the trial court must conduct a hearing that permits meaningful factual and legal challenge and must find by a preponderance of the evidence that the government provided a reasonable reunification plan, expended reasonable efforts to assist reunification, and that the parents failed to make adequate progress.
3. Before terminating parental rights through a termination proceeding or adoption proceeding, the trial court must make an independent finding of parental unfitness, unless exceptional circumstances or a stipulation make that finding unnecessary.

4. When biological parents with intact parental rights consent to adoption by one of competing petitioners, their choice receives weighty consideration; the competing petitioner must prove by clear and convincing evidence that the preferred placement would be contrary to the child's best interests.
5. The trial court did not abuse its discretion in granting R.W. and A.W.'s adoption petition over E.A.'s competing petition because clear and convincing evidence showed that disrupting the children's attachments to the foster parents would be contrary to the children's best interests.

KEY QUOTATIONS

“We hold that a trial court’s grant of a permanency goal change from reunification to adoption over the parents’ objection, without an adjudicatory hearing to determine whether the District has fulfilled its duty to expend reasonable efforts to reunify the family, violates a parent’s procedural due process rights and, therefore, is appealable by the parents as a matter of right.” (Part III)

“Therefore, we overrule our prior decision, In re K.M.T., and hold that a change in the permanency goal of a neglect case from reunification to adoption is an order subject to immediate appellate review.” (Part III)

“prior to the termination of parental rights, either through a TPR or through an adoption proceeding, a finding of parental unfitness must first be made by the trial court unless truly exceptional circumstances exist or the parents have otherwise stipulated to their continued unfitness.” (Part IV)

“We reiterate the great importance of stability and continuity this court has recognized in evaluating the best interest of child.” (Part V)

FACTUAL BACKGROUND

A.L. and Ta.L. were removed from their biological parents' care after both parents were arrested and incarcerated following a domestic-violence incident. The children had significant medical and developmental problems, including failure to thrive and untreated medical conditions, and were placed with foster parents R.W. and A.W., with whom they remained for more than three years. The children's aunt, E.A., later sought to adopt them with the support of the biological parents, but expert testimony established that the children had their strongest attachments to the foster parents and would face serious psychological and developmental risks if removed from their care.

PROCEDURAL HISTORY

The children were removed from their biological parents' care in March 2008, adjudicated neglected, and placed with foster parents R.W. and A.W. The trial court changed the permanency goal from reunification to adoption, later granted the foster parents' adoption petition over the aunt's petition, and found that the biological parents' consent was withheld contrary to the children's best interests. The District of Columbia Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Ta.L., 75 A.3d 122 (D.C. 2013)
- In re R.W., 91 A.3d 1020 (D.C. 2014)
- In re K.M.T., 795 A.2d 688 (D.C. 2002)
- Santosky v. Kramer, 455 U.S. 745 (1982)
- Troxel v. Granville, 530 U.S. 57 (2000)
- In re T.J., 666 A.2d 1 (D.C. 1995)
- In re J.S.R., 374 A.2d 860 (D.C. 1977)
- In re C.A.B., 4 A.3d 890 (D.C. 2010)
- In re T.W.M., 964 A.2d 595 (D.C. 2009)
- In re D.I.S., 494 A.2d 1316 (D.C. 1985)
- In re R.M.G., 454 A.2d 776 (D.C. 1982)
- In re K.D., 26 A.3d 772 (D.C. 2011)
- In re T.W.M., 18 A.3d 815 (D.C. 2011)
- In re R.E.S., 19 A.3d 785 (D.C. 2011)
- In re S.L.G., 110 A.3d 1275 (D.C. 2015)
- In re G.A.P., 133 A.3d 994 (D.C. 2016)
- In re Baby Boy C., 630 A.2d 670 (D.C. 1993)
- In re W.D., 988 A.2d 456 (D.C. 2010)
- In re F.W., 870 A.2d 82 (D.C. 2005)
- In re D.R.M., 570 A.2d 796 (D.C. 1990)
- Rutledge v. Harris, 263 A.2d 256 (D.C. 1970)
- In re A.C., 597 A.2d 920 (D.C. 1991)