

SUPREME COURT OF CONNECTICUT

In re Jacob W., 330 Conn. 744

200 A.3d 1091 (2019) · Decided February 15, 2019

SUMMARY

This document is a dissenting opinion in a Connecticut Supreme Court case concerning petitions to terminate a father's parental rights based on the absence of an ongoing parent-child relationship. The dissent argues that the trial court independently found insufficient proof that allowing additional time to establish or reestablish the relationship would be detrimental to the children's best interests. It would reverse the Appellate Court and affirm the trial court's denial of the termination petitions.

CASE DETAILS

COURT	Supreme Court of Connecticut
WRITING FOR THE COURT	D'Auria, J.; Palmer, J.; McDonald, J.; Mullins, J.; Kahn, J.; Ecker, J.; Vertefeuille, J.
JURISDICTION	Connecticut
DECIDED	February 15, 2019
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The maternal grandmother appealed the trial court's denial of petitions to terminate the respondent father's parental rights. The Appellate Court reversed and ordered a new trial; the Supreme Court granted certification. This is the dissenting opinion, which would have reversed the Appellate Court and remanded with direction to affirm the trial court.
STANDARD OF REVIEW	A trial court's factual findings are reviewed for clear error, and an appellate court should not substitute its judgment for that of the trial court on fact-bound determinations entrusted to juvenile-session judges. An ambiguous trial court memorandum should be read as a whole and construed, when reasonably possible, to support rather than contradict the judgment.
PRECEDENTIAL VALUE	dissenting opinion; nonbinding
PARTIES	Petitioner, the maternal grandmother v. Daniel W., respondent father

TOPICS

termination of parental rights

parental rights

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standard of review

PRACTICE AREAS

family law

termination of parental rights

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QUESTIONS PRESENTED

1. Whether the trial court's denial of the petitions to terminate parental rights could be affirmed because the petitioner failed to prove the independent statutory 'further time' detriment prong.
2. Whether General Statutes § 45a-717 (g) (2) (C) requires clear and convincing proof of both the absence of an ongoing parent-child relationship and detriment from allowing additional time to establish or reestablish that relationship.
3. Whether the Appellate Court improperly substituted its judgment for that of the trial court when reviewing fact-bound findings concerning detriment and the timing of termination.

HOLDINGS

1. Section 45a-717 (g) (2) (C) requires the petitioner to prove by clear and convincing evidence both that no ongoing parent-child relationship exists and that allowing further time to establish or reestablish the relationship would be detrimental to the child's best interests.
2. The trial court's finding that additional time would not be detrimental was not clearly erroneous, and the appellate courts should defer to the trial court's fact-bound assessment unless the finding lacks evidentiary support.
3. Incarceration may be considered in assessing a parent's ability to maintain a relationship, but incarceration alone cannot serve as the basis for terminating parental rights.

KEY QUOTATIONS

“Thus, to satisfy subsection (g) (2) (C) of the statute, the court must find both (1) that the petitioner has established that there is no ongoing parent-child relationship (the “no ongoing parent-child relationship” prong) and (2) that permitting the parent further time to establish or reestablish such a relationship would be detrimental to the children’s best interests (the “further time” prong).”

“Although a court may consider the “inevitable effects of incarceration” on an individual’s ability to parent, “the fact of incarceration, in and of itself, cannot be the basis for a termination of parental rights.””

“Lack of productivity does not necessarily equate to detriment, but rather is a factor to consider in determining whether further time would be detrimental.”

FACTUAL BACKGROUND

The respondent father was serving an effective twenty-nine-year prison sentence for sexually abusing the children's young aunt and for conduct involving violence against their mother that the children witnessed. A protective order prevented him from contacting the children, although he sought assistance arranging visits and updates and participated in programs sending them gifts. The children had negative or nonexistent feelings

toward him, were bonded with their maternal grandmother, and the guardian ad litem recommended termination, but the trial court found that the petitioner had not established by clear and convincing evidence either the absence of an ongoing parent-child relationship or that allowing additional time would be detrimental to the children's best interests.

PROCEDURAL HISTORY

The trial court denied the maternal grandmother's amended petitions alleging abandonment and no ongoing parent-child relationship, finding that neither the absence of an ongoing relationship nor detriment from allowing additional time had been proven by clear and convincing evidence, and that termination was not in the children's best interests. The Appellate Court reversed, concluding that the trial court's reasoning and factual findings were legally and logically inconsistent, and ordered a new trial. The dissent would have reversed the Appellate Court and affirmed the trial court's denial of the petitions.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The dissent would reverse the Appellate Court's judgment and remand with direction to affirm the trial court's denial of the petitions. This was the proposed disposition in the dissent, not the disposition adopted by the majority.

CASES CITED

- In re Elvin G., 310 Conn. 485, 514, 78 A.3d 797 (2013)
- In re Juvenile Appeal (Docket No. 10155), 187 Conn. 431, 443, 446 A.2d 808 (1982)
- In re Yasiel R., 317 Conn. 773, 792, 120 A.3d 1188 (2015)
- In re Davonta V., 285 Conn. 483, 494, 940 A.2d 733 (2008)
- In re Jonathon G., 63 Conn. App. 516, 525, 777 A.2d 695 (2001)
- In re Baby Girl B., 224 Conn. 263, 293-301, 618 A.2d 1 (1992)
- In re James T., 9 Conn. App. 608, 644, 520 A.2d 608 (1987)
- In re Jason R., 306 Conn. 438, 453, 460, 51 A.3d 334 (2012)
- Lewis v. Commissioner of Correction, 117 Conn. App. 120, 128, 977 A.2d 772 (2009), cert. denied, 294 Conn. 904, 982 A.2d 647 (2009)
- State v. Henderson, 312 Conn. 585, 598, 94 A.3d 614 (2014)
- Walton v. New Hartford, 223 Conn. 155, 165, 612 A.2d 1153 (1992)
- In re Juvenile Appeal (Anonymous), 177 Conn. 648, 675-76, 420 A.2d 875 (1979)
- Meribear Productions, Inc. v. Frank, 328 Conn. 709, 724, 183 A.3d 1164 (2018)
- In re Juvenile Appeal (83-DE), 190 Conn. 310, 318-19, 460 A.2d 1277 (1983)

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