

SUPREME COURT OF NEW JERSEY

New Jersey Division of Child Protection and Permanency v. K.N. and K.E.

223 N.J. 530 (2015) · No. A-10/11, 074161 · Decided December 15, 2015

SUMMARY

The Supreme Court of New Jersey held that a Family Part judge may determine that a child’s best interests are served by placement with a relative who is not licensed as a resource family parent. The court held that the Family Part could not compel resource-family-parent payments to an unlicensed relative, but could require the Division to provide other statutorily authorized assistance. It also clarified that a temporary or final domestic-violence restraining order may be considered in placement and licensing decisions but does not automatically disqualify a potential resource family parent.

CASE DETAILS

COURT	Supreme Court of New Jersey
WRITING FOR THE COURT	Per Curiam; Chief Justice Rabner; Justice LaVecchia; Justice Albin; Justice Patterson; Justice Solomon; Judge Cuff (temporarily assigned)
JURISDICTION	New Jersey
DECIDED	December 15, 2015
DOCKET	A-10/11, 074161
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal and cross-appeal from the Appellate Division's decision concerning the Family Part's authority to place a child with an unlicensed relative and to order financial assistance under the Resource Family Parent Licensing Act.
PRECEDENTIAL VALUE	published and precedential
PARTIES	T.E., a minor, New Jersey Division of Child Protection and Permanency (cross-appellant) v. K.N. (cross-respondent), K.E., New Jersey Division of Child Protection and Permanency (respondent)

TOPICS

- child custody
- family law procedure
- statutory interpretation
- administrative law
- appellate procedure

PRACTICE AREAS

family law

child welfare

administrative law

appellate procedure

QUESTIONS PRESENTED

1. Whether the Family Part had authority to place a child under the Division's care and supervision with a relative who was not licensed as a resource family parent under the Resource Family Parent Licensing Act.
2. Whether the Family Part could compel the Division to provide an unlicensed relative with the financial assistance available to a licensed resource family parent under the Act.
3. Whether a temporary or final domestic-violence restraining order automatically disqualified a potential resource family parent from licensure under the Act.
4. Whether the Appellate Division's remand for further placement review remained justiciable after the child was returned to his mother.

HOLDINGS

1. The Family Part has authority to determine that a child's best interests are served by placement with a relative who is not licensed as a resource family parent under the Resource Family Parent Licensing Act.
2. The Family Part may not compel the Division to pay an unlicensed relative the financial assistance specifically available to a resource family parent licensed under the Act.
3. A Family Part judge may require the Division to pay statutorily authorized assistance to unlicensed persons caring for a foster child.
4. Entry of a temporary or final domestic-violence restraining order may be considered as a factor in placement review but does not automatically disqualify a potential resource family parent from licensure under the Act.
5. The Appellate Division's remand for further placement review was moot because the Division returned the child to his mother's care and custody.

KEY QUOTATIONS

"We affirm, substantially for the reasons expressed in the Appellate Division opinion, that the Family Part judge had the authority to determine that the child's best interests were served by his continued placement with a relative not licensed as a resource family parent under the Act, and that the Family Part judge did not have the authority to compel the Division to pay financial assistance under the Act to a relative not licensed as a resource family parent." (4)

"First, a Family Part judge may require the Division to pay statutorily authorized assistance to unlicensed persons caring for a foster child." (5)

"Second, entry of a temporary or final restraining order may be considered by a Family Part judge as a factor in a child's placement review, but does not automatically disqualify a potential resource family parent from licensure under the Act." (5)

FACTUAL BACKGROUND

The Division obtained temporary custody of six-year-old T.E. after investigating allegations of domestic violence and drug use in his home. It initially placed him with his maternal grandparents, but removed him after learning that the maternal step-grandfather had been the subject of a dismissed domestic-violence complaint and determining that the home could not be licensed under the Resource Family Parent Licensing Act. The Family Part ordered the child returned to the grandparents and ordered the Division to provide them with licensed-resource-family-parent financial assistance, prompting the appeal.

PROCEDURAL HISTORY

The Family Part awarded the Division temporary custody of T.E. and later ordered the Division to return him to his maternal grandparents and provide them with the financial assistance available to a licensed resource family parent. The Appellate Division held that the Family Part could place the child with the grandparents but remanded for consideration of statutory and regulatory placement factors; it also held that the Family Part could not order resource-family-parent payments to the unlicensed grandparents and that a final restraining order barred licensure. The Supreme Court granted leave to appeal, affirmed the placement and payment determinations as modified, and dismissed the remand as moot because the Division had returned the child to his mother.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The Appellate Division's remand for further consideration of placement factors was dismissed as moot. The Appellate Division's judgment was modified and affirmed.

CASES CITED

- N.J. Div. of Child Prot. & Permanency v. K.N., 435 N.J. Super. 16 (App. Div. 2014)
- J.D. v. M.D.F., 207 N.J. 458, 474 (2011)
- Crespo v. Crespo, 408 N.J. Super. 25, 38-40 (App. Div. 2009), *aff'd o.b.*, 201 N.J. 207 (2010)