

SUPREME COURT OF GEORGIA

Boddie v. Daniels, 288 Ga. 143

702 S.E.2d 172 (2010) · No. S10A1821 · Decided November 1, 2010

SUMMARY

The Supreme Court of Georgia held that the best-interest standard in OCGA § 29-2-8(b) must be narrowly construed to protect a biological parent's constitutional right to raise a child. Before continuing a temporary guardianship over the parent's objection, the third party must prove by clear and convincing evidence that returning custody to the parent would cause physical or significant, long-term emotional harm, and must then show that continuation of the guardianship would best promote the child's welfare. The court reversed and remanded because the juvenile court applied a preponderance standard and made no required finding of harm.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Carley, Presiding Justice; All the Justices
JURISDICTION	Georgia
DECIDED	November 1, 2010
DOCKET	S10A1821
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Mother appealed the juvenile court's denial of her petition to terminate a temporary guardianship over her minor daughter.
PRECEDENTIAL VALUE	Published opinion; precedential decision of the Supreme Court of Georgia.
PARTIES	Tammie Boddie v. Yolanda Daniels

TOPICS

- guardianships
- child custody
- parental rights
- constitutional law
- statutory interpretation

PRACTICE AREAS

- family law
- guardianship law
- constitutional law
- appellate procedure

QUESTIONS PRESENTED

1. Whether OCGA § 29-2-8(b)'s best-interest standard for deciding whether to terminate a temporary guardianship must be narrowly construed to protect a biological parent's constitutional right to raise her child.
2. What evidentiary showing a third-party temporary guardian must make before a temporary guardianship may be continued over a biological parent's request for termination.
3. Whether the juvenile court erred by continuing the temporary guardianship without finding by clear and convincing evidence that returning custody to the biological parent would harm the child.

HOLDINGS

1. The best-interest standard in OCGA § 29-2-8(b) is constitutional only when narrowly construed in accordance with the safeguards applicable to custody disputes between a biological parent and a third party.
2. Before a temporary guardianship may be continued over a biological parent's request for termination, the third-party guardian must prove by clear and convincing evidence that the child will suffer physical or significant, long-term emotional harm if custody is returned to the biological parent; after that showing, the guardian must prove that continuation of the guardianship will best promote the child's welfare and happiness.
3. The juvenile court erred by denying termination of the temporary guardianship without finding by clear and convincing evidence that termination would harm the child.

KEY QUOTATIONS

“Accordingly, that standard as found in OCGA § 29-2-8(b) must be interpreted to mean that the third party must prove by clear and convincing evidence that the child will suffer physical or emotional harm if custody were awarded to the biological parent [by terminating the temporary guardianship]. Once this showing is made, the third party must then show that [continuation of the temporary guardianship] will best promote the child's welfare and happiness.” (702 S.E.2d at 175)

“By harm, we mean either physical harm or significant, long-term emotional harm; we do not mean merely social or economic disadvantages.” (702 S.E.2d at 175)

FACTUAL BACKGROUND

In March 2007, Tammie Boddie consented in writing to a petition for temporary letters of guardianship filed by Yolanda Daniels for Boddie's minor daughter. The probate court issued the temporary letters in April 2007. In 2009, Boddie sought termination of the guardianship; after transfer to the juvenile court, that court found by a preponderance of the evidence that continuing the guardianship served the child's best interests, but made no finding that termination would cause the child physical or emotional harm.

PROCEDURAL HISTORY

A probate court issued temporary letters of guardianship after the mother signed a written consent. When the mother later petitioned to terminate the guardianship, the guardian objected and the matter was transferred to the juvenile court. The juvenile court applied a preponderance-of-the-evidence best-interest standard, continued the

guardianship, and denied termination without finding that returning custody to the mother would harm the child. The Supreme Court of Georgia reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the juvenile court for further proceedings not inconsistent with the opinion. The juvenile court must apply the narrowed standard, determine whether the third party has proved by clear and convincing evidence that returning custody to the mother would cause physical or significant, long-term emotional harm, and, if so, determine whether continuation of the temporary guardianship best promotes the child's welfare and happiness. The court must also consider the factors identified in *Clark v. Wade*.

CASES CITED

- In the Interest of J.R.R., 281 Ga. 662, 663, 641 S.E.2d 526 (2007)
- Clark v. Wade, 273 Ga. 587, 544 S.E.2d 99 (2001)
- In the Matter of Guardianship of Doe, 93 Hawai'i 374, 4 P.3d 508 (2000)
- In the Matter of Bunting, 311 A.2d 855 (Del. 1973)
- In re Guardianship of D.J., 268 Neb. 239, 682 N.W.2d 238 (2004)
- In the Matter of the Guardianship of Williams, 254 Kan. 814, 869 P.2d 661 (1994)
- Guardianship of Jeremiah T., 976 A.2d 955 (Me. 2009)
- In the Interest of SRB-M, 201 P.3d 1115 (Wyo. 2009)
- Quilloin v. Walcott, 434 U.S. 246, 255, 98 S. Ct. 549, 54 L. Ed. 2d 511 (1978)