

COURT OF APPEALS OF MARYLAND

In re Najasha B., 409 Md. 20

972 A.2d 845 (2009) · No. No. 114, September Term, 2008 · Decided June 8, 2009

SUMMARY

The Maryland Court of Appeals held that a juvenile court may not dismiss a CINA petition solely at the request of the local department of social services when the child, through counsel, objects. The court concluded that the CINA statute, the child's party status and right to counsel, and the juvenile court's parens patriae role require the court to consider the allegations at an adjudicatory hearing.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Adkins, J.; Bell, C.J.; Harrell, J.; Battaglia, J.; Greene, J.; Murphy, J.; Barbera, J.
JURISDICTION	Maryland
DECIDED	June 8, 2009
DOCKET	No. 114, September Term, 2008
DISPOSITION	vacated
PROCEDURAL POSTURE	The child appealed the juvenile court's dismissal of a CINA petition after the Baltimore City Department of Social Services requested dismissal and the child's counsel objected. The Court of Appeals of Maryland granted certiorari on its own initiative.
STANDARD OF REVIEW	The court reviewed the juvenile court's statutory interpretation and dismissal decision for legal error.
PRECEDENTIAL VALUE	Published precedential opinion of the Court of Appeals of Maryland
PARTIES	Najasha B. v. Baltimore City Department of Social Services, Ms. A., Mr. B.

TOPICS

- family law procedure
- child custody
- statutory interpretation
- civil procedure

PRACTICE AREAS

- Family law
- Juvenile law
- Child protection

QUESTIONS PRESENTED

1. Whether a juvenile court must hold an adjudicatory hearing after a CINA petition has been filed when DSS seeks dismissal and the child, through counsel, objects.
2. Whether DSS has a unilateral right to withdraw or dismiss a CINA petition before adjudication.
3. Whether the juvenile court may dismiss a CINA petition without adjudication based on changed circumstances or the availability of a new petition under the CINA complaint process.

HOLDINGS

1. When a CINA petition has been filed and the child timely objects to dismissal and requests a hearing on the merits, the juvenile court must conduct an adjudicatory hearing rather than dismiss the petition before adjudication.
2. DSS does not have a unilateral right to withdraw or dismiss a CINA petition before adjudication when the child objects.
3. Changed circumstances and Maryland Rule of Professional Conduct 3.1 do not require dismissal before adjudication; DSS may present its changed assessment and argue that intervention is no longer in the child's best interests at the adjudicatory hearing.

KEY QUOTATIONS

“Thus, DSS does not have a unilateral right to withdraw a petition prior to an adjudication when the child objects.” (856)

“The court should have declined DSS’s dismissal request and conducted an adjudicatory hearing on the petition’s merits, in light of Najasha’s objection to dismissal and hearing request.” (858)

FACTUAL BACKGROUND

DSS filed a CINA petition after police found five-year-old Najasha without adult supervision in her parents' home during a drug raid, with marijuana throughout the home and no identified relative willing to care for her. The juvenile court denied shelter care but entered an order controlling the parents' conduct and scheduled an adjudicatory hearing. Before the hearing occurred, DSS asserted that the circumstances had been resolved and moved to dismiss; Najasha's counsel objected based in part on school-attendance concerns and requested an adjudication on the petition.

PROCEDURAL HISTORY

DSS filed a CINA petition alleging that five-year-old Najasha was found unsupervised in her parents' home during a drug raid and that marijuana was present. After several postponements of the adjudicatory hearing, DSS moved to dismiss, the child's counsel objected, and the juvenile court granted dismissal without an adjudicatory hearing. The juvenile court denied Najasha's exception, and the Court of Special Appeals appeal followed; the Court of Appeals granted certiorari, vacated the dismissal, and remanded.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The Circuit Court for Baltimore City must decline DSS's dismissal request and conduct an adjudicatory hearing on the merits of the CINA petition, with further proceedings consistent with the opinion.

CASES CITED

- *Kushell v. Dep't of Natural Res.*, 385 Md. 563, 870 A.2d 186 (2005)
- *Ishola v. State*, 404 Md. 155, 945 A.2d 1273 (2008)
- *Lewis v. State*, 348 Md. 648, 705 A.2d 1128 (1998)
- *In re Danielle B.*, 78 Md. App. 41, 552 A.2d 570 (1989)
- *Wentzel v. Montgomery Gen. Hosp.*, 293 Md. 685, 447 A.2d 1244 (1982), cert. denied, 459 U.S. 1147 (1983)
- *In re Adoption/Guardianship No. T97036005*, 358 Md. 1, 746 A.2d 379 (2000)
- *In re Yve S.*, 373 Md. 551, 819 A.2d 1030 (2003)
- *In re James S.*, 286 Md. 702, 410 A.2d 586 (1980)
- *Maryland State Bar Association, Inc. v. Frank*, 272 Md. 528, 325 A.2d 718 (1974)
- *In re Mark M.*, 365 Md. 687, 782 A.2d 332 (2001)
- *In re J.J.*, 142 Ill. 2d 1, 153 Ill. Dec. 239, 566 N.E.2d 1345 (1991)
- *Allen M. v. Superior Court*, 6 Cal. App. 4th 1069, 8 Cal. Rptr. 2d 259 (1992)
- *People in Interest of R.E.*, 729 P.2d 1032 (Colo. Ct. App. 1986)
- *Ex parte Skinner & Eddy Corp.*, 265 U.S. 86, 44 S. Ct. 446, 68 L. Ed. 912 (1924)

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