

SUPREME COURT OF OKLAHOMA

Fleming v. Hyde

2016 OK 23 (Okla. 2016) · No. 113844 · Decided March 1, 2016

SUMMARY

The Oklahoma Supreme Court summarily vacated the dismissal of Jennifer Fleming's action and remanded for further proceedings. Relying on *Ramey v. Sutton*, the court held that Fleming had standing to pursue a best-interests-of-the-child hearing based on the couple's committed relationship, joint family planning, and shared parental responsibilities.

CASE DETAILS

COURT	Supreme Court of Oklahoma
JURISDICTION	Oklahoma
DECIDED	March 1, 2016
DOCKET	113844
DISPOSITION	vacated
PROCEDURAL POSTURE	Appeal from the dismissal of Fleming's action in the Logan County District Court. The Oklahoma Supreme Court summarily disposed of the appeal under Oklahoma Supreme Court Rule 1.201.
PRECEDENTIAL VALUE	Published
PARTIES	Jennifer Fleming v. Rachel Whitney Hyde

TOPICS

- family law
- parental rights
- standing
- appellate procedure
- motions to dismiss

PRACTICE AREAS

- family law
- appellate procedure
- civil procedure

QUESTIONS PRESENTED

- Whether Fleming had standing to pursue a best-interests-of-the-child hearing based on her relationship with Hyde and the child.
- Whether the district court properly dismissed Fleming's action.

HOLDINGS

1. Fleming had standing to pursue a best-interests-of-the-child hearing because the facts demonstrated a committed relationship, joint family planning, an intent to parent jointly, and shared parental responsibilities after the child's birth.
2. The district court erred by granting the motion to dismiss; its dismissal order was vacated and the cause was remanded for further proceedings.

KEY QUOTATIONS

“to recognize those unmarried same sex couples who, prior to Bishop [Bishop v. Smith, 760 F.3d 1070 (10th Cir.), cert. denied, 574 U.S. ____, 135 S. Ct. 271, 190 L. Ed. 2d 139 (2014)] and Obergefell,[Obergefell v. Hodges, 576 U.S. ____, 135 S. Ct. 2584, 192 L.Ed2d 609, (2014)] entered into committed relationships, engaged in family planning with the intent to parent jointly and then shared in those responsibilities after the child was born.” (¶13)

FACTUAL BACKGROUND

Fleming and Hyde were an unmarried same-sex couple who exchanged rings after a marriage proposal was accepted and expressed an intent to form a family and raise a child together. They made financial preparations, consulted a fertility physician, and completed counseling requested by the physician. Fleming attended prenatal and pediatric appointments, participated in the child's delivery, helped prepare a baby book, was identified as the child's other mother at daycare, and the couple held themselves out publicly as a family.

PROCEDURAL HISTORY

The Logan County District Court granted Hyde's motion to dismiss. On appeal, the Oklahoma Supreme Court concluded that its recent decision in *Ramey v. Sutton* controlled the issues, held that Fleming had standing to pursue a best-interests-of-the-child hearing, vacated the dismissal, and remanded for further proceedings.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The cause was remanded to the district court for further proceedings.

CASES CITED

- *Ramey v. Sutton*, 2015 OK 79, 362 P.3d 217
- *Bishop v. Smith*, 760 F.3d 1070 (10th Cir.), cert. denied, 574 U.S. ____, 135 S. Ct. 271, 190 L. Ed. 2d 139 (2014)
- *Obergefell v. Hodges*, 576 U.S. ____, 135 S. Ct. 2584, 192 L. Ed. 2d 609 (2014)

OPINION

FLEMING v. HYDE

2016 OK 23

PER CURIAM.

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SUPREME COURT OF THE STATE OF OKLAHOMA Cite as: 2016 OK 23, __ P.3d __
NOTICE: THIS OPINION HAS NOT BEEN RELEASED FOR PUBLICATION. UNTIL
RELEASED, IT IS SUBJECT TO REVISION OR WITHDRAWAL. JENNIFER FLEMING,
Plaintiff/Appellant, v. RACHEL WHITNEY HYDE, Defendant/Appellee.

ON APPEAL FROM THE DISTRICT COURT OF LOGAN COUNTY,

THE HONORABLE LOUIS A. DUEL, PRESIDING

ORDER OF SUMMARY DISPOSITION

¶1 Rule 1.201 of the Oklahoma Supreme Court Rules provides that "[i]n any case in which it appears that a prior controlling appellate decision is dispositive of the appeal, the court may summarily affirm or reverse, citing in its order of summary disposition this rule and the controlling decision." Okla. S. Ct. Rule 1.201. ¶2 After reviewing the record in this case, THE COURT FINDS that our recent decision in Ramey v. Sutton, 2015 OK 79, 362 P.3d 217, disposes of the issues in this case. ¶3 In Ramey, we made clear our intent "to recognize those unmarried same sex couples who, prior to Bishop [Bishop v. Smith, 760 F.3d 1070 (10th Cir.), cert. denied, 574 U.S. ____, 135 S. Ct. 271, 190 L. Ed. 2d 139 (2014)] and Obergefell,[Obergefell v. Hodges, 576 U.S. ____, 135 S. Ct. 2584, 192 L.Ed2d 609, (2014)] entered into committed relationships, engaged in family planning with the intent to parent jointly and then shared in those responsibilities after the child was born." Id. at ¶19. ¶4 Fleming made a proposal of marriage that was accepted by Hyde. The couple exchanged rings to signify their commitment to one another. They expressed interest in having a family and raising a child together. The couple made financial adjustments to prepare for becoming parents. Fleming and Hyde consulted with a fertilization physician to become pregnant. At the request of their physician, the couple met with a counselor for evaluation and a determination as to their fitness to become parents. ¶5 Fleming attended all pre-natal appointments. Fleming was present in the delivery room and participated in the delivery of their child. The couple prepared a baby book together. They both attended pediatrician appointments with their child. Fleming was listed as the other "mom" at the daycare. The couple held themselves out as a family to their friends, family and the public. ¶6 We find that the district court erred in granting the motion to dismiss, and that Fleming has standing to pursue a best interests of the child hearing. ¶7 IT IS THEREFORE ORDERED that the district court's order of dismissal is vacated, and the cause remanded to the district court for further proceedings. DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE THIS 29TH DAY OF MARCH, 2016.

/S/CHIEF JUSTICE

ALL JUSTICES CONCUR

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2015 OK 79, 362 P.3d 217, RAMEY v. SUTTONDiscussed

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