

SUPREME COURT OF MISSISSIPPI

In the Interest of E.M.

810 So. 2d 596 (Miss. 2002) · Decided March 14, 2002

SUMMARY

The Mississippi Supreme Court reviewed a Hinds County Youth Court order placing an abused child with a relative after two adjudications of physical abuse. The court held that the evidence did not support relative placement, particularly given the child’s prior injuries while in family care and the recommendations for therapeutic foster care. The judgment was reversed and remanded for a hearing and placement in appropriate foster care.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	McRae, Presiding Justice; Pittman, C.J.; Smith, P.J.; Waller, J.; Diaz, J.; Easley, J.; Carlson, J.; Graves, J.; Cobb, J.
JURISDICTION	Mississippi
DECIDED	March 14, 2002
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The guardian ad litem appealed the Hinds County Youth Court's final order placing E.M. with her great-aunt while leaving legal custody with the Mississippi Department of Human Services.
STANDARD OF REVIEW	The youth court has discretion in child-custody and placement matters, but that discretion is governed by the child's best interests and the statutory placement factors. The Supreme Court reviewed the placement decision in light of the evidence and applicable statutory guidelines.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Mississippi
PARTIES	Carter, guardian ad litem for E.M. v. Hinds County Youth Court

TOPICS

- child custody
- family law procedure
- appellate procedure
- mootness
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the guardian ad litem timely perfected the appeal and filed the appellant's brief.
2. Whether the youth court erred by placing E.M. with a relative after two adjudications of physical abuse and evidence that E.M. and her brother had been injured while in relative care.

HOLDINGS

1. The timeliness issue was moot because the guardian ad litem filed the notice of appeal within the applicable period, the record and transcript were not available until February 23, 2001, and the court granted an extension making the April 20, 2001 brief timely.
2. The youth court erred in placing E.M. with her great-aunt. A relative does not have a preferential right to custody over unrelated parties when relative placement would be contrary to the child's best interests, and the evidence required placement in appropriate foster care.

KEY QUOTATIONS

"It is not in E.M.'s best interest to award custody to her great-aunt." (at 600)

"The youth court obviously erred in its decision allowing relative placement." (at 600)

"the polestar concern is the best interest and welfare of the child." (at 600)

FACTUAL BACKGROUND

Before she was six months old, E.M. sustained multiple fractures, broken ribs, bruises, and a serious liver injury while in the care of her parents or relatives. Medical specialists concluded that the injuries were trauma-related and characteristic of child abuse. E.M.'s brother later suffered fatal injuries consistent with shaken baby syndrome while in the custody of the same aunt and uncle. Despite recommendations from the Department of Human Services, CASA, and the guardian ad litem for therapeutic foster placement, the youth court placed E.M. with her great-aunt.

PROCEDURAL HISTORY

E.M. was twice adjudicated physically abused by the Hinds County Youth Court. After additional injuries occurred while E.M. and her brother were in relative care, the youth court nevertheless awarded E.M. physical custody to her great-aunt. The guardian ad litem appealed; the Mississippi Supreme Court rejected the timeliness challenge as moot, reversed the placement decision, and remanded for a prompt hearing and placement in appropriate foster care.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the Hinds County Youth Court with directions to hold a hearing forthwith to place E.M. in appropriate foster care.

CASES CITED

- Petition of Beggiani, 519 So. 2d 1208, 1213 (Miss. 1988)
- Albright v. Albright, 437 So. 2d 1003, 1005 (Miss. 1983)

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