

SUPREME COURT OF APPEALS OF WEST VIRGINIA

R.L.D. and K.D., individually and as next friends of M.I.D., v. West Virginia Department of Health and Human Resources, Erica Garcia, and LaDella Blair

No. 17-1087 (Kanawha County 14-C-1348) (W. Va. Nov. 19, 2018) · No. No. 17-1087 · Decided November 19, 2018

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed summary judgment for the West Virginia Department of Health and Human Resources and two employees in a civil action brought by paternal grandparents concerning the removal of a child from their custody during abuse and neglect proceedings. The court held that the respondents were protected by qualified immunity and that the record did not establish fraudulent, malicious, oppressive, or otherwise unlawful conduct sufficient to overcome that immunity. The court also rejected the grandparents’ arguments concerning service, notice, jurisdiction, and alleged statutory violations.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Margaret L. Workman; Justice Elizabeth D. Walker; Justice Tim Armstead; Justice Evan H. Jenkins; Justice Paul T. Farrell sitting by temporary assignment
JURISDICTION	West Virginia
DECIDED	November 19, 2018
DOCKET	No. 17-1087
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioners appealed the Circuit Court of Kanawha County's order granting respondents' motion for summary judgment in petitioners' civil action arising from a child abuse and neglect proceeding.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. Whether a constitutional or statutory right was clearly established is a question of law for the court.
PRECEDENTIAL VALUE	nonprecedential

PARTIES

R.L.D. and K.D., individually and as next friends of M.I.D. v. West Virginia Department of Health and Human Resources, Erica Garcia, LaDella Blair

TOPICS

summary judgment

standard of review

guardianship procedure

civil procedure

appellate procedure

PRACTICE AREAS

civil procedure

appellate procedure

governmental immunity

child welfare

guardianship

QUESTIONS PRESENTED

1. Whether the circuit court erred in granting summary judgment when petitioners alleged genuine factual disputes concerning the DHHR's failure to initially name them in the abuse and neglect petition, its removal of M.I.D., and alleged fraud and statutory violations.
2. Whether qualified immunity barred petitioners' claims against the DHHR and its employees based on discretionary acts undertaken during the child abuse and neglect investigation and custody proceedings.
3. Whether the DHHR's failure to initially serve petitioners with the petition and preliminary-hearing notice, in violation of West Virginia Code § 49-6-1(b), was sufficient to defeat qualified immunity.

HOLDINGS

1. Summary judgment was proper because petitioners failed to demonstrate a genuine issue of material fact that would preclude judgment for respondents as a matter of law.
2. Qualified immunity barred petitioners' claims because the DHHR's investigation, decision to file an abuse and neglect petition, and related custody actions were discretionary functions, and petitioners failed to show a violation of a clearly established statutory or constitutional right or conduct that was fraudulent, malicious, or oppressive.
3. The DHHR's initial failure to serve petitioners with the petition and preliminary-hearing notice did not defeat qualified immunity under the circumstances presented.

KEY QUOTATIONS

"We review petitioners' appeal of the circuit court's summary judgment order de novo." (at 3)

"Qualified immunity is broad and protects 'all but the plainly incompetent or those who knowingly violate the law.'" (at 5)

"Accordingly, we find that petitioners cannot establish that the DHHR's mistake was such that qualified immunity should not apply." (at 7)

FACTUAL BACKGROUND

In 2010, petitioners obtained legal guardianship of M.I.D., who resided with them in Wetzel County. In 2012, the DHHR filed an abuse and neglect petition concerning M.I.D. and his sister, initially omitting petitioners as named respondents, but listing M.I.D.'s address as petitioners' Wetzel County address. After the DHHR informed the circuit court that it intended to amend the petition to add petitioners, the child was placed in DHHR custody based on allegations and substantiated findings of abuse and neglect. The abuse and neglect petition against petitioners was later dismissed for lack of jurisdiction, and M.I.D. was returned to their permanent legal and physical custody.

PROCEDURAL HISTORY

Petitioners were the paternal grandparents and legal guardians of M.I.D. The West Virginia Department of Health and Human Resources initiated an abuse and neglect proceeding, obtained temporary custody of M.I.D., and later returned him to petitioners after the circuit court dismissed the abuse and neglect petition against petitioners for lack of jurisdiction. Petitioners then sued the DHHR and two employees for fraud, constitutional and statutory violations, child concealment, and outrage/intentional infliction of emotional distress. The circuit court granted respondents summary judgment, finding no genuine issue of material fact and concluding that immunity and other defenses applied. The Supreme Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- In re K.H., 235 W. Va. 254, 773 S.E.2d 20 (2015)
- Melinda H. v. William R. II, 230 W. Va. 731, 742 S.E.2d 419 (2013)
- State v. Brandon B., 218 W. Va. 324, 624 S.E.2d 761 (2005)
- State v. Edward Charles L., 183 W. Va. 641, 398 S.E.2d 123 (1990)
- Painter v. Peavy, 192 W. Va. 189, 451 S.E.2d 755 (1994)
- Williams v. Precision Coil, Inc., 194 W. Va. 52, 59, 459 S.E.2d 329, 336 (1995)
- W. Va. State Police v. Hughes, 238 W. Va. 406, 411, 796 S.E.2d 193, 198 (2017)
- Hutchison v. City of Huntington, 198 W. Va. 139, 148-49, 479 S.E.2d 649, 658-59 (1996)
- Crouch v. Gillispie, 240 W. Va. 229, 809 S.E.2d 699 (2018)
- Maston v. Wagner, 236 W. Va. 488, 500, 781 S.E.2d 936, 948 (2015)
- W. Va. Reg'l Jail & Corr. Facility Auth. v. A.B., 234 W. Va. 492, 766 S.E.2d 751 (2014)
- State v. Chase Securities, Inc., 188 W. Va. 356, 424 S.E.2d 591 (1992)
- Clark v. Dunn, 195 W. Va. 272, 465 S.E.2d 374 (1995)
- W. Va. Dep't of Health & Human Res. v. Payne, 231 W. Va. 563, 577, 746 S.E.2d 554, 568 (2013)
- State ex rel. Hatcher v. McBride, 221 W. Va. 760, 766, 656 S.E.2d 789, 795 (2007)
- State Dep't of Health v. Robert Morris N., 195 W. Va. 759, 765, 466 S.E.2d 827, 833 (1995)

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