

SUPREME COURT OF CONNECTICUT

In re Jeisean M.

270 Conn. 382 (2004) · Decided July 27, 2004

SUMMARY

The Connecticut Supreme Court affirmed the termination of the respondent mother’s parental rights to Jeisean M. The court rejected constitutional challenges to Connecticut’s termination and reunification statutes, concluding that the statutes properly permit state intervention upon clear and convincing evidence of parental unfitness. It also upheld the trial court’s findings regarding the mother’s failure to achieve sufficient rehabilitation, the child’s best interests, and the court’s use of judicial notice.

CASE DETAILS

COURT	Supreme Court of Connecticut
WRITING FOR THE COURT	Sullivan, C. J.
JURISDICTION	Connecticut
DECIDED	July 27, 2004
DISPOSITION	affirmed
PROCEDURAL POSTURE	The respondent mother appealed from a Superior Court judgment terminating her parental rights. The child was transferred the appeal to the Supreme Court of Connecticut pursuant to General Statutes § 51-199 (c) and Practice Book § 65-2.
STANDARD OF REVIEW	The finding that a parent failed to rehabilitate is reviewed under the clearly erroneous standard, with every reasonable presumption in favor of the trial court's ruling. The court also reviewed the best-interest determination under the clearly erroneous standard. Constitutional claims and the propriety of judicial notice were reviewed as legal issues, although the court declined to reach certain claims because they constituted impermissible collateral attacks on the earlier commitment judgment.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Respondent mother v. Commissioner of Children and Families

TOPICS

- termination of parental rights
- family law procedure
- due process
- judicial notice
- appellate procedure

PRACTICE AREAS

family law

termination of parental rights

constitutional law

appellate procedure

evidence

QUESTIONS PRESENTED

1. Whether General Statutes § 17a-112 (j) was facially unconstitutional or unconstitutional as applied under the federal and Connecticut due process clauses because it authorized termination of parental rights without the protections recognized in *Roth v. Weston*.
2. Whether the evidence, including the absence of expert testimony, supported the finding by clear and convincing evidence that the respondent had failed to achieve sufficient personal rehabilitation.
3. Whether the evidence supported the finding that termination of the respondent's parental rights was in Jeisean's best interest.
4. Whether the trial court properly took judicial notice of its prior finding that further reunification efforts were no longer appropriate.
5. Whether the respondent could collaterally attack the prior order extending the child's commitment and determining that further reunification efforts were inappropriate in the termination appeal.
6. Whether the reunification provisions in General Statutes (Rev. to 2001) §§ 17a-111b and 46b-129 (k) (2) were unconstitutional because they did not then require a clear-and-convincing-evidence finding that reunification efforts were inappropriate.

HOLDINGS

1. General Statutes § 17a-112 (j) is not facially unconstitutional or unconstitutional as applied under the due process clauses of the United States and Connecticut constitutions when it permits termination of the parental rights of a parent shown by clear and convincing evidence to be unfit.
2. The trial court properly found by clear and convincing evidence that the respondent failed to achieve the degree of personal rehabilitation necessary to support a reasonable belief that she could assume a responsible position in Jeisean's life within a reasonable time.
3. Expert testimony is not a precondition to a trial court's factual determination that a parent has failed to rehabilitate or that termination is in a child's best interest.
4. The trial court properly found by clear and convincing evidence that termination of the respondent's parental rights was in Jeisean's best interest.
5. The trial court properly took judicial notice of its prior May 17, 2001 finding that further reunification efforts were no longer appropriate because the respondent was given an opportunity to be heard and the prior ruling concerned the same parties and case.
6. The respondent could not challenge the May 17, 2001 commitment-extension and reunification rulings for the first time as a collateral attack in the appeal from the termination judgment.

KEY QUOTATIONS

“The respondent has cited no authority for the proposition that the government must presume that a parent who has been shown, by clear and convincing evidence, to be unfit acts in the best interests of the child and is, therefore, entitled to raise the child without interference.” (397)

“Personal rehabilitation as used in the statute refers to the restoration of a parent to his or her former constructive and useful role as a parent.” (399)

“Although expert testimony may be accorded great weight when it is offered, there is no requirement for expert testimony in termination of parental rights cases.” (400)

FACTUAL BACKGROUND

Jeisean was born on December 3, 1999, and was removed from the respondent's care in March 2000 after she left him with an aunt, failed to return, and later acknowledged that she had passed out after ingesting Ecstasy. The respondent repeatedly failed to comply with substance-abuse treatment, counseling, drug testing, visitation, housing, and income requirements, and tested positive for marijuana and, later, phencyclidine. Although she completed a parenting class and began another treatment program, the trial court found that she had not achieved sufficient rehabilitation. Jeisean had spent twenty of his first twenty-four months in the same foster home, where the foster parents wished to adopt him.

PROCEDURAL HISTORY

The child was removed from the respondent's care in March 2000 after the respondent left him with an aunt while under the influence of drugs and failed to return. The trial court sustained temporary custody, adjudicated the child uncared for, committed him to the commissioner, and ordered reunification steps. On May 17, 2001, the court extended the commitment, approved a permanency plan calling for termination and adoption, and found that further reunification efforts were no longer appropriate. The commissioner filed a termination petition on July 24, 2001. After trial, the court found by clear and convincing evidence that the respondent had failed to achieve sufficient personal rehabilitation and that termination was in the child's best interest. The Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Roth v. Weston, 259 Conn. 202, 789 A.2d 431 (2002)
- Troxel v. Granville, 530 U.S. 57, 120 S. Ct. 2054, 147 L. Ed. 2d 49 (2000)
- In re Joshua S., 260 Conn. 182, 203-05, 796 A.2d 1141 (2002)
- Crockett v. Pastore, 259 Conn. 240, 246, 789 A.2d 453 (2002)
- Lassiter v. Dept. of Social Services, 452 U.S. 18, 27, 101 S. Ct. 2153, 68 L. Ed. 2d 640 (1981)
- Stanley v. Illinois, 405 U.S. 645, 651, 92 S. Ct. 1208, 31 L. Ed. 2d 551 (1972)
- In re Eden F., 250 Conn. 674, 705-06, 741 A.2d 873 (1999)

- In re Juvenile Appeal (Anonymous), 177 Conn. 648, 667-68, 420 A.2d 875 (1979)
- In re Rebecca W., 8 Conn. App. 92, 95-96, 510 A.2d 1017 (1986)
- In re Teshea D., 9 Conn. App. 490, 493-94, 519 A.2d 1232 (1987)
- In re Angela C., 11 Conn. App. 497, 499, 528 A.2d 402 (1987)
- In re Juvenile Appeal (Anonymous), 181 Conn. 638, 646, 436 A.2d 290 (1980)
- In re Victoria B., 79 Conn. App. 245, 263, 829 A.2d 855 (2003)
- State v. Zayas, 195 Conn. 611, 615, 490 A.2d 68 (1985)
- Brockett v. Jensen, 154 Conn. 328, 336, 225 A.2d 190 (1966)
- Carpenter v. Planning & Zoning Commission, 176 Conn. 581, 591, 409 A.2d 1029 (1979)
- In re Kachainy C., 67 Conn. App. 401, 412, 787 A.2d 592 (2001)
- In re Shamika F., 256 Conn. 383, 405-07, 773 A.2d 347 (2001)
- Habura v. Kochanowicz, 40 Conn. App. 590, 593, 672 A.2d 512 (1996)