

DISTRICT OF COLUMBIA COURT OF APPEALS

In re E.D.R.

772 A.2d 1156 (D.C. 2001) · Decided May 17, 2001

SUMMARY

The District of Columbia Court of Appeals held that a petition to correct an adopted child's foreign birth certificate is evaluated under the preponderance-of-the-evidence standard, rather than an absolute-certainty standard. The court concluded that medical evidence, testimony from the adoptive parents, and the questionable reliability of the foreign birth certificate supported changing the child's birth date. The case was remanded with instructions to recognize November 1, 1998, as the child's date of birth for lawful purposes.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Washington, Associate Judge; Glickman; Kern; Washington
JURISDICTION	District of Columbia
DECIDED	May 17, 2001
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Adoptive parents appealed from the Superior Court's denial of their motion to correct their adopted child's date of birth on her foreign birth certificate and from the denial of reconsideration. The appeal followed entry of the final decree of adoption.
STANDARD OF REVIEW	The court reviewed the trial court's findings under the clearly erroneous standard, examined whether the proper burden of proof was applied, and determined whether the decision was supported by substantial reasoning drawn from a firm factual foundation in the record. The child's best interest was the decisive consideration because the issue affected the future of a minor.
PRECEDENTIAL VALUE	published and precedential
PARTIES	S.S.R., I.E.R.

TOPICS

- adoption
- family law procedure
- evidence
- standard of review
- appellate procedure

PRACTICE AREAS

family law

adoption

evidence

appellate procedure

QUESTIONS PRESENTED

1. What burden of proof applies to a request to correct an abandoned child's date of birth on a foreign birth certificate?
2. Whether the trial court erred by requiring proof of absolute certainty rather than applying the preponderance-of-the-evidence standard.
3. Whether the evidence supported changing E.D.R.'s birth date to November 1, 1998, even though her exact date of birth could not be established with absolute certainty.

HOLDINGS

1. A request to correct an abandoned child's date of birth on a foreign birth certificate is governed by the preponderance-of-the-evidence standard, absent a statute requiring a heightened standard.
2. The greater weight of the evidence established that the May 22, 1998, date on E.D.R.'s Chinese birth certificate was incorrect and that November 1, 1998, should be treated as her date of birth for all lawful purposes.

KEY QUOTATIONS

“Thus, the trial court should have applied the preponderance of the evidence standard in deciding whether to correct E.D.R.’s birth date.” (1159)

“Accordingly, since the only contrary evidence in the record is the Chinese birth certificate, that is questionable on its face and discredited by other competent evidence, we hold that the greater weight of the evidence is in favor of correcting E.D.R.’s date of birth.” (1161)

“Thus, we remand this case with instructions for the trial court to enter judgment for the petitioners finding that the date on E.D.R.’s birth certificate is incorrect and, further finding that for all lawful purposes, November 1, 1998 is to be considered E.D.R.’s date of birth.” (1161)

FACTUAL BACKGROUND

S.S.R. and I.E.R. adopted an abandoned Chinese infant whose foreign birth certificate listed May 22, 1998, as her date of birth. The adoptive parents presented opinions from a pediatrician and pediatric dentist that, based on the child's physical and dental development, she was born approximately six months later, around November 1, 1998; orphanage workers had also indicated that the listed date was likely inaccurate. The trial court retained the certificate date because the parents had not produced contrary evidence of absolute certainty.

PROCEDURAL HISTORY

Appellants filed a petition for adoption in the Superior Court on December 9, 1999, and later moved to change E.D.R.'s birth date from May 22, 1998, to November 1, 1998. The trial court denied the motion and

reconsideration, entered a final adoption decree retaining the original date, and appellants appealed. The District of Columbia Court of Appeals reversed and remanded with instructions to correct the birth date.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court was instructed to enter judgment for the petitioners finding that the date on E.D.R.'s birth certificate was incorrect and that, for all lawful purposes, November 1, 1998, was to be considered E.D.R.'s date of birth.

CASES CITED

- Murphy v. McCloud, 650 A.2d 202, 209-10 (D.C. 1994)
- Santosky v. Kramer, 455 U.S. 745, 757 & n. 9 (1982)
- In re D.I.S., 494 A.2d 1316, 1323 (D.C. 1985)
- Alexander v. National Farmers Org., 687 F.2d 1173, 1203 (8th Cir. 1982)
- In re L.W., 613 A.2d 350, 355 (D.C. 1992)
- In re Petition of J.O.L., 409 A.2d 1073, 1075 (D.C. 1980)
- Sponaugle v. Pre-Term, Inc., 411 A.2d 366, 367 (D.C. 1980)
- Bergman v. Parker, 216 A.2d 581, 584 (D.C. 1966)
- Linder v. Hyattsville Auto & Supply Co., 84 A.2d 541, 542 (D.C. 1951)
- Psychiatric Inst. of Washington v. Allen, 509 A.2d 619, 624 (D.C. 1986)
- Green v. District of Columbia Department of Employment Services, 499 A.2d 870, 877 (D.C. 1985)
- In re K.I., 735 A.2d 448, 463 (D.C. 1999)
- In re J.S.R., 374 A.2d 860, 864 (D.C. 1977)
- In re J.M.C., 741 A.2d 418, 420-24 (D.C. 1999)
- Tyler v. United States, 705 A.2d 270, 275-76 (D.C. 1997)
- Jonathan Woodner Co. v. Breeden, 665 A.2d 929, 938 (D.C. 1995)
- Ly v. Secretary of Health and Human Services, 629 F. Supp. 1181 (E.D. Mich. 1986)
- Hamid Kassem v. Secretary of Health and Human Services, MOJ-Civ. Act. 78-24 (N.D.W. Va. 1980)
- De Broum (Olga Nubia Ceja) v. Department of Justice, 18 F.3d 774 (9th Cir. 1994)