

SUPREME COURT OF CALIFORNIA

Sharon S. v. Superior Court

31 Cal. 4th 417, 2 Cal. Rptr. 3d 699, 73 P.3d 554 (2003) · No. S102671 · Decided August 4, 2003

SUMMARY

The California Supreme Court considered whether an independent adoption could proceed when the birth parent intended to retain parental rights and coparent with the prospective adoptive parent. The court held that Family Code section 8617, which ordinarily relieves birth parents of parental duties and responsibilities upon adoption, may be waived and is not a mandatory prerequisite to every valid adoption. The court reversed the Court of Appeal's judgment and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of California
WRITING FOR THE COURT	Werdegar, J.; George, C.J.; Kennard, J.; Moreno, J.
JURISDICTION	California
DECIDED	August 4, 2003
DOCKET	S102671
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Sharon S. petitioned for a writ of mandate challenging the superior court's refusal to dismiss an independent adoption proceeding and its refusal to permit withdrawal of her consent. The Court of Appeal granted relief and directed the trial court to permit withdrawal of consent and termination of the adoption. The California Supreme Court granted review, reversed the Court of Appeal, and remanded for consideration of unresolved fraud, undue influence, duress, and related issues.
STANDARD OF REVIEW	The court independently interpreted the Family Code and reviewed the statutory and constitutional questions de novo. It remanded unresolved factual issues concerning fraud, undue influence, duress, and compliance with adoption procedures.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Sharon S. v. The Superior Court of San Diego County

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QUESTIONS PRESENTED

1. Whether Family Code section 8617 bars an independent second-parent adoption in which the birth parent consents to the adoption but retains parental rights and responsibilities.
2. Whether the parties may waive the ordinary termination-of-parental-rights consequences stated in Family Code section 8617.
3. Whether recognition of the second-parent adoption violates separation-of-powers principles or the birth parent's substantive due process rights.
4. Whether unresolved claims that Sharon's consent was obtained by fraud, undue influence, or duress required further proceedings.

HOLDINGS

1. Family Code section 8617 does not bar an otherwise valid independent second-parent adoption in which the birth parent consents to the adoption while retaining parental rights and responsibilities.
2. The parties to an independent adoption may waive the benefits and operation of section 8617 when the birth parent intends to retain parental rights and the prospective adoptive parent agrees to share parental responsibilities.
3. Recognition of an independent second-parent adoption under the existing adoption statutes does not violate separation-of-powers principles or the birth parent's substantive due process rights.
4. The case must be remanded for the Court of Appeal to address Sharon's unresolved claims that her consent was obtained through fraud, undue influence, duress, or related attorney-conflict deficiencies.

KEY QUOTATIONS

“We conclude that section 8617 declares a legal consequence of the usual adoption, waivable by the parties thereto, rather than a mandatory prerequisite to every valid adoption.” (31 Cal. 4th at 435)

“Nowhere does any mandate or requirement of relinquishment of a birth parent's rights and responsibilities appear.” (31 Cal. 4th at 438)

“For the foregoing reasons, we reverse the judgment of the Court of Appeal and remand the cause for further proceedings consistent with this opinion.” (31 Cal. 4th at 458)

FACTUAL BACKGROUND

Sharon S. and Annette F. were former domestic partners who had raised two children together. Sharon, the biological mother, had previously consented to Annette's second-parent adoption of their older child while retaining her own parental rights. After Joshua was born through artificial insemination, Sharon and Annette

executed adoption documents stating both that Sharon consented to the adoption and that she intended to retain parental rights and responsibilities. Their relationship later deteriorated; Sharon sought to withdraw consent and dismiss the adoption, while the county agency recommended approval based on Annette's relationship with Joshua and the child's best interests.

PROCEDURAL HISTORY

Sharon S. and Annette F. jointly initiated an independent second-parent adoption proceeding concerning Joshua. After Sharon sought to withdraw her consent and dismiss the proceeding, the superior court denied the dismissal motions and noted that her consent had not been timely revoked. The Court of Appeal held that an independent adoption preserving the birth parent's parental rights lacked statutory authorization. The Supreme Court rejected that statutory interpretation, reversed, and remanded for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Court of Appeal must address Sharon's unresolved claims concerning fraud, undue influence, duress, and the adoption attorney's alleged failure to obtain a conflict-of-interest waiver. Subject to that determination, the superior court may proceed with the adoption if the statutory and administrative prerequisites, including a valid section 8617 waiver, are satisfied and the adoption remains in Joshua's best interests.

CASES CITED

- Estate of Sharon, 179 Cal. 447, 177 P. 283 (1918)
- Marshall v. Marshall, 196 Cal. 761, 239 P. 36 (1925)
- Bickel v. City of Piedmont, 16 Cal. 4th 1040, 68 Cal. Rptr. 2d 758, 946 P.2d 427 (1997)
- In re Johnson, 98 Cal. 531, 33 P. 460 (1893)
- Department of Social Welfare v. Superior Court, 1 Cal. 3d 1, 81 Cal. Rptr. 345, 459 P.2d 897 (1969)
- Adoption of Barnett, 54 Cal. 2d 370, 6 Cal. Rptr. 562, 354 P.2d 18 (1960)
- In re Santos, 185 Cal. 127, 195 P. 1055 (1921)
- San Diego County Department of Public Welfare v. Superior Court, 7 Cal. 3d 1, 101 Cal. Rptr. 541, 496 P.2d 453 (1972)
- Yamaha Corp. of America v. State Board of Equalization, 19 Cal. 4th 1, 78 Cal. Rptr. 2d 1, 960 P.2d 1031 (1998)
- Styne v. Stevens, 26 Cal. 4th 42, 109 Cal. Rptr. 2d 14, 26 P.3d 343 (2001)
- Kelly v. Methodist Hospital of Southern California, 22 Cal. 4th 1108, 95 Cal. Rptr. 2d 514, 997 P.2d 1169 (2000)
- Reeves v. Bailey, 53 Cal. App. 3d 1019, 126 Cal. Rptr. 51 (1975)
- Adoption of Michelle T., 44 Cal. App. 3d 699, 117 Cal. Rptr. 856 (1975)
- Adoption of Kelsey S., 1 Cal. 4th 816, 4 Cal. Rptr. 2d 615, 823 P.2d 1216 (1992)

- Michael H. v. Gerald D., 491 U.S. 110, 109 S. Ct. 2333, 105 L. Ed. 2d 91 (1989)
- Johnson v. Calvert, 5 Cal. 4th 84, 19 Cal. Rptr. 2d 494, 851 P.2d 776 (1993)
- Troxel v. Granville, 530 U.S. 57, 120 S. Ct. 2054, 147 L. Ed. 2d 49 (2000)
- Matter of Cozza, 163 Cal. 514, 126 P. 161 (1912)
- Adoption of Kay C., 228 Cal. App. 3d 741, 278 Cal. Rptr. 907 (1991)
- In re Yoder, 199 Cal. 699, 251 P. 205 (1926)
- Navellier v. Sletten, 29 Cal. 4th 82, 124 Cal. Rptr. 2d 530, 52 P.3d 703 (2002)
- Lisa M. v. Henry Mayo Newhall Memorial Hospital, 12 Cal. 4th 291, 48 Cal. Rptr. 2d 510, 907 P.2d 358 (1995)
- County of Los Angeles v. Superior Court, 2 Cal. App. 3d 1059, 82 Cal. Rptr. 882 (1969)

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