

SUPREME COURT OF UTAH

Osborne v. Adoption Center of Choice, 2003 UT 15

70 P.3d 58 (Utah 2003) · No. No. 20020515 · Decided May 2, 2003

SUMMARY

The Supreme Court of Utah affirmed the denial of Frank Osborne’s petition for extraordinary relief concerning an interstate adoption. The court held that Osborne had not shown that any Utah court had exceeded its jurisdiction, failed to perform a legal duty, or denied him a legally cognizable right under Utah Rule of Civil Procedure 65B. The majority therefore did not reach his substantive challenges involving personal jurisdiction and due process, while the dissent argued that Utah’s handling of the matter violated jurisdictional and constitutional protections.

CASE DETAILS

COURT	Supreme Court of Utah
WRITING FOR THE COURT	Durrant, Associate Chief Justice; Russon, Justice; Wilkins, Justice; Durham, Chief Justice; Howe, Justice; Parley R. Baldwin, Second District Judge, sitting by designation
JURISDICTION	Utah
DECIDED	May 2, 2003
DOCKET	No. 20020515
DISPOSITION	affirmed
PROCEDURAL POSTURE	Osborne sought extraordinary relief, including mandamus and injunctive relief, from the Utah Court of Appeals to challenge Utah courts' authority in an interstate adoption proceeding and to preserve personal-jurisdiction objections. After the court of appeals denied relief, the Utah Supreme Court granted certiorari and affirmed.
STANDARD OF REVIEW	Abuse of discretion for the court of appeals' refusal to issue extraordinary relief.
PRECEDENTIAL VALUE	Published, precedential Utah Supreme Court opinion; the majority resolved only whether extraordinary relief was properly denied.
PARTIES	Frank Osborne v. Adoption Center of Choice, J.S. and S.S., adoptive parents

TOPICS

adoption

parental rights

writ of certiorari

appellate procedure

personal jurisdiction

PRACTICE AREAS

adoption

family law

constitutional law

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the Utah Court of Appeals abused its discretion by denying Osborne's petition for extraordinary relief under Utah Rule of Civil Procedure 65B.
2. Whether Osborne's petition could properly seek a writ directed against every district court in Utah.
3. Whether Osborne established that a Utah court had exceeded its jurisdiction, failed to perform a legal duty, or denied him a legally cognizable right so as to support extraordinary relief.

HOLDINGS

1. The Utah Court of Appeals did not abuse its discretion in denying Osborne's petition because he failed to allege circumstances and seek relief falling within an available ground for extraordinary relief under Utah Rule of Civil Procedure 65B(d).
2. A petition for an extraordinary writ cannot be directed against every district court in Utah; it must be directed to a particular judge, agency, person, or entity.
3. Osborne failed to demonstrate that he had preserved a legally recognized parental interest that entitled him to challenge the adoption or obtain extraordinary relief.

KEY QUOTATIONS

"According to the plain language of rule 19, an extraordinary writ cannot be addressed to every court of the state at once; only to a particular court or to a particular judge." (64)

"By refusing to take the opportunity to establish that he has preserved his parental rights, Osborne has deprived himself of the ability to challenge the adoption." (65)

FACTUAL BACKGROUND

Frank Osborne and Angela Baker, both North Carolina residents, cohabited in North Carolina during Baker's pregnancy and after the child's birth. Although Baker initially represented that she would not place the child for adoption, she later returned to Utah with the child and relinquished the child to Adoption Center of Choice. Osborne did not execute a voluntary declaration of paternity, register as a putative father, or otherwise take the statutory steps identified by the court to preserve his parental rights before the relinquishment. He then attempted to challenge the Utah adoption proceedings and sought extraordinary relief to prevent finalization of the adoption.

PROCEDURAL HISTORY

Osborne filed a Utah district-court petition challenging subject-matter jurisdiction over the adoption and later filed a North Carolina paternity and custody action. The Utah district court quashed a subpoena, allowed an

adoption-related petition to proceed without notice, and ruled that Osborne had waived rights under Utah adoption statutes; Osborne voluntarily dismissed his Utah petition. The federal district court declined to issue a temporary restraining order. The Utah Court of Appeals denied Osborne's petition for mandamus and injunctive relief, and the Utah Supreme Court affirmed after granting certiorari.

DISPOSITION

affirmed

CASES CITED

- Renn v. Utah State Board of Pardons, 904 P.2d 677 (Utah 1995)
- Swayne v. L.D.S. Social Services, 795 P.2d 637 (Utah 1990)
- Lehr v. Robertson, 463 U.S. 248 (1983)
- In re Adoption of Baby Boy Doe, 717 P.2d 686 (Utah 1986)
- In re Adoption of R.N.L., 913 P.2d 761 (Utah Ct. App. 1996)
- White v. Adoption of Baby Boy D., 10 P.3d 212 (Okla. 2000)
- D.A. v. State (In re W.A.), 2002 UT 127, 63 P.3d 607
- State v. E.A. (In re W.A.), 2002 UT 126, 63 P.3d 100
- Pennoyer v. Neff, 95 U.S. 714 (1877)
- Shaffer v. Heitner, 433 U.S. 186 (1977)
- In re Adoption of S.L.F., 2001 UT App 183, 27 P.3d 583
- Wells v. Children's Aid Society, 681 P.2d 199 (Utah 1984)
- Sanchez v. L.D.S. Social Services, 680 P.2d 753 (Utah 1984)
- In re Adoption of B.B.D., 1999 UT 70, 984 P.2d 967
- Ellis v. Social Services Department, 615 P.2d 1250 (Utah 1980)
- In re J.P., 648 P.2d 1364 (Utah 1982)
- In re L.S., 943 P.2d 621 (Okla. 1997)
- E.E.B. v. D.A., 446 A.2d 871 (N.J. 1982)
- In re Clausen, 442 Mich. 648, 502 N.W.2d 649 (1993)