

SUPREME COURT OF MISSISSIPPI

J.C.N.F. v. Stone County Department of Human Services

996 So. 2d 762 (Miss. 2008) · No. No. 2007-CA-01252-SCT · Decided December 11, 2008

SUMMARY

The Supreme Court of Mississippi reviewed the termination of J.C.N.F.'s parental rights by the Stone County Chancery Court. The court held that substantial credible evidence supported termination under Mississippi Code Section 93-15-103(3)(h) and that the admission of other allegedly hearsay evidence was therefore immaterial. It also held that due process did not require appointment of counsel or a continuance under the circumstances presented.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Graves, Justice; Waller, P.J.; Diaz, P.J.; Carlson, J.; Randolph, J.; Lamar, J.; Dickinson, J.; Easley, J.; Smith, C.J.
JURISDICTION	Mississippi
DECIDED	December 11, 2008
DOCKET	No. 2007-CA-01252-SCT
DISPOSITION	affirmed
PROCEDURAL POSTURE	J.C.N.F. appealed a Stone County Chancery Court judgment terminating her parental rights. She challenged the sufficiency of the evidence, the admission of hearsay, the judgment's preparation by the Department of Human Services, the denial of appointed counsel, and the failure to grant a continuance.
STANDARD OF REVIEW	The Supreme Court reviews factual findings in parental-rights termination cases for substantial credible evidence and manifest error. Questions of law, including the due-process issue, are reviewed de novo. The denial of a continuance is reviewed for abuse of discretion and will be reversed only if manifest injustice resulted.
PRECEDENTIAL VALUE	Published Mississippi Supreme Court opinion; precedential.
PARTIES	J.C.N.F. v. Stone County Department of Human Services

TOPICS

termination of parental rights

parental rights

procedural due process

evidence

appellate procedure

PRACTICE AREAS

family law

termination of parental rights

constitutional law

appellate procedure

evidence

QUESTIONS PRESENTED

1. Whether clear and convincing evidence supported termination of J.C.N.F.'s parental rights under Mississippi Code section 93-15-103(3)(h).
2. Whether alleged hearsay and the chancellor's use of a judgment prepared by DHS required reversal.
3. Whether due process required appointment of counsel for J.C.N.F. at the termination hearing.
4. Whether the chancery court abused its discretion by proceeding without granting a continuance for J.C.N.F. to obtain counsel.

HOLDINGS

1. Termination was supported by clear and convincing evidence under Mississippi Code section 93-15-103(3)(h), because the children had been adjudicated neglected, placed in DHS custody pursuant to section 43-15-13, and a court of competent jurisdiction had determined that reunification was not in their best interests.
2. Due process did not require appointment of counsel for J.C.N.F. under the circumstances because, applying Lassiter's case-by-case analysis, the presence of counsel would not have made a determinative difference and the proceeding did not involve expert testimony or specially troublesome legal issues.
3. The chancery court did not abuse its discretion by denying a continuance because J.C.N.F. had several months' notice of the hearing, had previously experienced similar difficulties obtaining counsel, and failed to show that a continuance would secure representation or that manifest injustice resulted.
4. Any error concerning hearsay or the chancellor's signing of a judgment prepared by DHS was harmless because substantial, credible, nonhearsay evidence independently supported termination under section 93-15-103(3)(h), and only one statutory ground was required.

KEY QUOTATIONS

"Implicit in a recommendation that parental rights be terminated is the belief that reunification is not in the best interest of the child." (996 So. 2d at 767)

"This Court concludes that the chancellor did not err by finding clear and convincing evidence in support of terminating J.C.N.F.'s parental rights under Mississippi Code Section 93-15-103(3)(h)." (996 So. 2d at 772-773)

FACTUAL BACKGROUND

J.C.N.F.'s two children were placed in the custody of the Stone County Department of Human Services after she arrived late to pick them up from school and appeared unable to take them home; she was then arrested. The children were adjudicated neglected, placed in DHS custody, and made subject to a service agreement requiring

numerous steps concerning employment, substance abuse, housing, transportation, counseling, and psychological evaluation. J.C.N.F. failed to complete many required tasks, and the children remained in foster or relative placements. At the termination hearing, she appeared without counsel and stated that she could not afford an attorney.

PROCEDURAL HISTORY

The Stone County Youth Court placed the children in DHS custody, adjudicated them neglected, and later recommended termination of parental rights. DHS filed a termination petition in chancery court. After the original chancellor recused herself, the successor chancellor conducted the termination hearing without appointing counsel for J.C.N.F. and terminated her parental rights. The Mississippi Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- J.P. v. S.V.B., 987 So. 2d 975 (Miss. 2008)
- K.D.F. v. J.L.H., 933 So. 2d 971 (Miss. 2006)
- Petit v. Holifield, 443 So. 2d 874 (Miss. 1984)
- Lassiter v. Department of Social Services, 452 U.S. 18, 101 S. Ct. 2153, 68 L. Ed. 2d 640 (1981)
- K.D.G.L.B.P. v. Hinds County Department of Human Services, 771 So. 2d 907 (Miss. 2000)
- S.N.C. v. J.R.D., 755 So. 2d 1077, 1080 (Miss. 2000)
- Dunbar v. Renfroe, 876 So. 2d 308, 312 (Miss. 2004)
- C.T. v. R.D.H., 843 So. 2d 690, 706 (Miss. 2003)
- Jacobs v. State, 870 So. 2d 1202, 1205 (Miss. 2004)