

FLORIDA FIFTH DISTRICT COURT OF APPEAL

Dep't of Children & Families v. S.B.

274 So. 3d 1170 (Fla. 5th DCA 2019) · Decided June 6, 2019

SUMMARY

The Florida Fifth District Court of Appeal reviewed a petition for certiorari challenging orders placing a dependent child with a relative in Alabama before completion of the Interstate Compact on the Placement of Children process. The court held that the trial court could not disregard the ICPC, quashed the challenged orders, and remanded for proceedings addressing the child's best interests pending completion of the ICPC process.

CASE DETAILS

COURT	Florida Fifth District Court of Appeal
WRITING FOR THE COURT	Cohen, J.; Orfinger, J.; Grosshans, J.
JURISDICTION	Florida
DECIDED	June 6, 2019
DISPOSITION	quashed
PROCEDURAL POSTURE	The Department of Children and Families petitioned for certiorari review of two dependency-court orders temporarily placing the child with a maternal grandfather in Alabama before completion of the Interstate Compact on the Placement of Children home-study process.
STANDARD OF REVIEW	Certiorari review for departure from the essential requirements of law.
PRECEDENTIAL VALUE	Published appellate opinion
PARTIES	Department of Children and Families v. S.B., Guardian ad Litem Program

TOPICS

writ of certiorari

family law procedure

appellate procedure

child custody

statutory interpretation

PRACTICE AREAS

Family law

Dependency

Interstate child placement

QUESTIONS PRESENTED

1. Whether the trial court departed from the essential requirements of law by placing the child in Alabama before completion of the ICPC requirements.
2. Whether the child could remain with the maternal grandfather during the ICPC process if that placement was in the child's best interests.

HOLDINGS

1. A trial court may not disregard the ICPC or send a child to a receiving state without complying with the ICPC's requirements, even when the court believes that compliance conflicts with the child's best interests or creates delay.
2. Although the trial court must comply with the ICPC, an out-of-state placement need not be immediately terminated if the child's best interests support allowing the child to remain there during completion of the ICPC process.

KEY QUOTATIONS

"a trial court cannot send children to a receiving state unless it has complied with 'each and every requirement set forth' in Article III of the ICPC" (1171-72)

"This Court has permitted children to remain where their best interests lie pending the completion of the ICPC process." (1172)

FACTUAL BACKGROUND

Following the child's birth in May 2018, DCF sought to shelter the child and requested an ICPC home study of the maternal grandfather's home in Alabama. The study had not been completed by the arraignment hearing, and DCF objected to an out-of-state placement without compliance with the ICPC. The trial court nevertheless placed the child with the grandfather, stating that it would put the child's interests first and the ICPC second.

PROCEDURAL HISTORY

After the child's birth, DCF petitioned to shelter the child and requested an ICPC-compliant home study of the maternal grandfather's Alabama residence. The home study was incomplete at the arraignment hearing, but the trial court nevertheless placed the child in the grandfather's temporary legal custody and later denied DCF's motion for reconsideration, expressly declining to apply the ICPC. DCF sought certiorari relief in the Fifth District Court of Appeal, which granted the petition, quashed both orders, and remanded for further proceedings.

DISPOSITION

quashed

REMAND INSTRUCTIONS

The January 28, 2019 arraignment order and the February 25, 2019 order denying DCF's motion for reconsideration or rehearing were quashed. The matter was remanded for further proceedings consistent with the

opinion, including consideration of where the child should reside during the ICPC process in light of the child's best interests.

CASES CITED

- Dep't of Child. & Fams. v. T.T., 42 So. 3d 962, 963-64 (Fla. 5th DCA 2010)
- Dep't of Child. & Fams. v. Fellows, 895 So. 2d 1181, 1185 (Fla. 5th DCA 2005)
- H.P. v. Dep't of Child. & Fams., 838 So. 2d 583, 584-85 (Fla. 5th DCA 2003)
- M.A.C. v. Dep't of Child. & Fams., 73 So. 3d 327, 328 (Fla. 1st DCA 2011)
- D.R. v. J.R., 203 So. 3d 952, 956 (Fla. 5th DCA 2016)
- B.G. v. Dep't of Child. & Fams., 189 So. 3d 305, 306 n.2 (Fla. 4th DCA 2016)
- R.F. v. Dep't of Child. & Fams., 50 So. 3d 1243, 1244 (Fla. 4th DCA 2011)