

SUPREME COURT OF MISSISSIPPI

In the Matter of the Adoption of P.B.H. L.T. and D.T. v. J.H.

787 So. 2d 1268 (Miss. 2001) · No. No. 2000-CA-00042-SCT · Decided June 21, 2001

SUMMARY

The Mississippi Supreme Court affirmed a chancery court’s judgment granting a joint adoption of a child to the child’s maternal grandmother and the mother’s former boyfriend, while awarding primary physical custody to the grandmother. The court held that the biological father’s consent was valid and irrevocable absent clear and convincing evidence of fraud, duress, or undue influence, and found no reversible error in admitting the independent therapist’s testimony, evaluating the child’s best interests, or limiting a proposed expert hypothetical.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Mills, Justice; Pittman, C.J.; Mills, J.; Cobb, J.
JURISDICTION	Mississippi
DECIDED	June 21, 2001
DOCKET	No. 2000-CA-00042-SCT
DISPOSITION	affirmed
PROCEDURAL POSTURE	The maternal grandmother and her husband appealed from a chancery-court adoption decree granting a joint adoption to the grandmother and the former boyfriend of the child's deceased mother. The biological father joined the appeal and challenged the denial of his motion to withdraw his consent and relinquishment of parental rights.
STANDARD OF REVIEW	The Supreme Court would not overturn the chancellor's factual findings when supported by substantial evidence unless the chancellor applied an erroneous legal standard or was manifestly wrong. Evidentiary rulings concerning expert testimony were reviewed for abuse of discretion, and any such error was subject to harmless-error analysis.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	L.T. and D.T., J.P. (joining the appeal) v. J.H.

TOPICS

adoption

parental rights

child custody

expert testimony

harmless error

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the biological father established fraud, duress, or undue influence sufficient to withdraw his consent and relinquishment of parental rights.
2. Whether the chancellor erred by admitting and relying on the testimony of the independent therapist allegedly biased in favor of J.H.
3. Whether the chancellor abused his discretion, committed manifest error, or applied an erroneous legal standard in granting a joint adoption to unrelated opposing parties.
4. Whether the chancellor improperly excluded a hypothetical question directed to the grandparents' expert.
5. Whether any error in excluding the hypothetical was harmless.

HOLDINGS

1. A birth parent's consent to adoption is valid and irrevocable unless the parent proves fraud, duress, or undue influence by clear and convincing evidence. The biological father failed to make that showing, so the chancellor properly denied his motion to withdraw consent.
2. The chancellor did not commit manifest error by considering the testimony and reports of a licensed, experienced, independent therapist appointed through a guardian ad litem.
3. The chancellor did not commit manifest error, abuse his discretion, or apply an erroneous legal standard by granting a joint adoption to the maternal grandmother and J.H., an unrelated former boyfriend of the deceased mother, while awarding primary physical custody to the grandmother and visitation to J.H.
4. The chancellor did not commit reversible error by excluding the grandparents' ill-phrased hypothetical, which improperly combined the expert's actual knowledge of some parties with assumptions about a person the expert had not evaluated.

KEY QUOTATIONS

"We have repeatedly held that a consent is valid and irrevocable unless the parent can establish either fraud, duress, or undue influence by clear and convincing evidence." (787 So. 2d at 1272)

"Kinship is only a factor to be considered and is not determinative of the issue." (787 So. 2d at 1274)

"However, we will not permit the use of ill-phrased hypothetical questions as a means of circumventing a chancellor's sound ruling disallowing inadmissible testimony." (787 So. 2d at 1276)

FACTUAL BACKGROUND

The child's mother died after entering a temporary joint-custody arrangement with J.H., who had believed, based on altered paternity-test results, that he was the child's biological father. The uncontested biological father, J.P.,

had signed a consent and relinquishment of parental rights but later sought to withdraw it, claiming he had not known he was the biological father. The maternal grandmother and her husband sought to exclude J.H. from the child's life, while an independent therapist testified that J.H. and the child had a strong parent-child bond and that excluding him could harm the child. The chancellor granted a joint adoption to J.H. and the grandmother, awarded the grandmother primary physical custody, and granted J.H. visitation.

PROCEDURAL HISTORY

The Chancery Court of the First Judicial District of Hinds County consolidated custody and adoption matters for trial. The chancellor denied the biological father's motion to set aside his consent, admitted and considered testimony from an independent therapist, rejected a proposed expert hypothetical, and entered an adoption decree granting adoption to both the maternal grandmother and J.H., with the grandmother retaining primary physical custody and J.H. receiving visitation. The Mississippi Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Grafe v. Olds, 556 So. 2d 690 (Miss. 1990)
- C.C.I. v. Natural Parents, 398 So. 2d 220 (Miss. 1981)
- Murphy v. Murphy, 631 So. 2d 812, 815-816 (Miss. 1994)
- J.C. v. Natural Parents, 417 So. 2d 529, 531 (Miss. 1982)
- Natural Mother v. Paternal Aunt, 583 So. 2d 614, 619 (Miss. 1991)
- Ainsworth v. Natural Father, 414 So. 2d 417 (Miss. 1982)
- Albright v. Albright, 437 So. 2d 1003, 1004 (Miss. 1983)
- Prante v. Beggiani, 519 So. 2d 1208, 1212 (Miss. 1988)
- Humphrey v. Pannell, 710 So. 2d 392, 402 (Miss. 1998)
- Gray v. State, 728 So. 2d 36 (Miss. 1998)

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