

## COURT OF APPEALS OF TEXAS, EIGHTH DISTRICT, EL PASO

### C.H. v. Texas Department of Family and Protective Services

No. 08-12-00251-CV (Tex. App.—El Paso Oct. 17, 2012) · No. No. 08-12-00251-CV · Decided October 17, 2012

---

#### SUMMARY

The Eighth District Court of Appeals of Texas affirmed a judgment terminating the father’s parental rights to his biological child. The court held that legally and factually sufficient evidence supported the trial court’s finding that termination was in the child’s best interest, considering the child’s medical needs, injuries, missed medical appointments, parental conduct, and household instability.

#### CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Court of Appeals of Texas, Eighth District, El Paso                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| WRITING FOR THE COURT | Ann Crawford McClure, Chief Justice; Rivera, Justice; Antcliff, Justice                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| JURISDICTION          | Texas                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| DECIDED               | October 17, 2012                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| DOCKET                | No. 08-12-00251-CV                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| PROCEDURAL POSTURE    | Father appealed from a bench-trial judgment terminating his parental rights to his biological child and appointing the Texas Department of Family and Protective Services as permanent managing conservator.                                                                                                                                                                                                                                                                                                                                                                                         |
| STANDARD OF REVIEW    | For legal sufficiency, the court considered all evidence in the light most favorable to the challenged finding and asked whether a reasonable factfinder could have formed a firm belief or conviction that the finding was true, while deferring to reasonable credibility determinations. For factual sufficiency, the court gave due deference to the factfinder and considered whether disputed evidence was so significant that a reasonable factfinder could not have formed a firm belief or conviction. Termination findings were reviewed under the clear-and-convincing-evidence standard. |
| PRECEDENTIAL VALUE    | Published opinion; precedential status is reported in the supplied metadata, although no reporter citation appears in the opinion text.                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| PARTIES               | C.H. v. Texas Department of Family and Protective Services                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

## TOPICS

termination of parental rights

parental rights

family law procedure

standard of review

appellate procedure

## PRACTICE AREAS

family law

parental rights

termination of parental rights

appellate procedure

## QUESTIONS PRESENTED

1. Whether the evidence was legally sufficient to support the finding that termination of Father's parental rights was in the child's best interest.
2. Whether the evidence was factually sufficient to support the finding that termination of Father's parental rights was in the child's best interest.

## HOLDINGS

1. The evidence was legally sufficient to support the finding that termination of Father's parental rights was in the child's best interest.
2. The evidence was factually sufficient to support the finding that termination of Father's parental rights was in the child's best interest.

## KEY QUOTATIONS

*“In conducting a legal sufficiency review in a parental termination case, the reviewing court should consider all the evidence in the light most favorable to the challenged finding to determine whether a reasonable trier of fact could have formed a firm belief or conviction that its finding was true.” (4)*

*“Having reviewed all of the evidence under the standard for legal sufficiency, we conclude that a reasonable trier of fact could have formed a firm belief or conviction that termination of Father’s parental rights is in the best interest of the child.” (9)*

## FACTUAL BACKGROUND

The child was born prematurely and, during the approximately twelve weeks he lived with his parents after leaving the hospital, suffered spiral fractures of both legs and three partially healed broken ribs. The parents claimed not to know how the injuries occurred, while medical evidence indicated that the injuries appeared nonaccidental. The parents also failed to obtain some vaccinations and physical-therapy appointments, and the child was dirty when taken to the hospital. After removal, the parents failed to complete portions of their service plans and demonstrated instability in housing, employment, and visitation.

## PROCEDURAL HISTORY

The Department filed a petition to terminate both parents' parental rights after the child suffered multiple fractures and the Department identified concerns regarding medical care, hygiene, and supervision. Following a bench trial, the district court found four statutory grounds for termination by clear and convincing evidence and

found termination to be in the child's best interest. Father appealed, challenging the legal and factual sufficiency of the evidence supporting the best-interest finding.

## DISPOSITION

affirmed

## CASES CITED

- In re J. L., 163 S.W.3d 79, 84 (Tex. 2005)
- In re J.F.C., 96 S.W.3d 256, 263, 266-67 (Tex. 2002)
- In re J.P.B., 180 S.W.3d 570, 573 (Tex. 2005)
- City of Keller v. Wilson, 168 S.W.3d 802, 817 (Tex. 2005)
- Southwestern Bell Telephone Company v. Garza, 164 S.W.3d 607, 625 (Tex. 2004)
- In re H.R.M., 209 S.W.3d 105, 108 (Tex. 2006)
- In re S.M., 2012 WL 4381372, at \*8 (Tex. App.—El Paso 2012, no pet. h.)
- In re L.M., 104 S.W.3d 642, 647 (Tex. App.—Houston [1st Dist.] 2003, no pet.)
- Holley v. Adams, 544 S.W.2d 367, 371-72 (Tex. 1976)
- In re C.H., 89 S.W.3d 17, 28 (Tex. 2002)
- Clark v. Dearen, 715 S.W.2d 364, 367 (Tex. App.—Houston [1st Dist.] 1986, no writ)
- C.H. v. Texas Department of Family and Protective Services, No. 08-12-00250-CV (Tex. App.—El Paso Oct. 17, 2012)
- L.V. v. Texas Department of Family and Protective Services, No. 08-12-00252-CV (Tex. App.—El Paso Oct. 17, 2012)