

SUPREME COURT OF WYOMING

RB v. State, Department of Family Services

406 P.3d 723 (Wyo. 2017) · Decided December 5, 2017

SUMMARY

The Wyoming Supreme Court held that a biological father whose parental rights had been terminated lacked standing to challenge the adoption of the child in a separate adoption proceeding. The court also held that his challenge to service and the termination order constituted an impermissible collateral attack because the record did not show a lack of jurisdiction on its face. The court affirmed the order striking his appearance and objection and the decree of adoption.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Justice Pox; Justice Burke; Justice Davis; Justice Hill; Justice Kautz
JURISDICTION	Wyoming
DECIDED	December 5, 2017
DISPOSITION	affirmed
PROCEDURAL POSTURE	RB appealed consolidated orders from an adoption proceeding striking his appearance and objection to the adoption and entering a final decree of adoption in favor of the foster parents.
STANDARD OF REVIEW	Questions concerning the ability to collaterally attack the termination order and the existence of standing are reviewed de novo.
PRECEDENTIAL VALUE	Published Wyoming Supreme Court opinion
PARTIES	RB v. State of Wyoming, Department of Family Services, FH and RH

TOPICS

- adoption
- parental rights
- standing
- appellate procedure
- family law procedure

PRACTICE AREAS

- Family law
- Adoption
- Termination of parental rights
- Appellate procedure

QUESTIONS PRESENTED

1. Whether RB could collaterally attack the order terminating parental rights in the separate adoption proceeding based on alleged defects in service or identification.
2. Whether RB had standing to object to or otherwise participate in the adoption after his parental rights had been terminated.

HOLDINGS

1. RB could not collaterally attack the termination order in the adoption proceeding because the record did not show on its face an absence of jurisdiction over him.
2. Because RB's parental rights had been terminated, he no longer had a legally protectible or tangible interest and therefore lacked standing to object to or otherwise participate in the adoption proceeding.

KEY QUOTATIONS

“RB’s parental rights have been terminated and, as a result, he has no legally protectable interest at stake and cannot object to or otherwise participate in the adoption.” (¶ 15)

“Because RB’s parental rights have been terminated, he has no standing to object to or otherwise participate in the adoption.” (¶ 15)

FACTUAL BACKGROUND

SSO had been in foster care since shortly after birth. The Department filed a termination proceeding against SSO's mother and an unknown father after reunification efforts failed; service on the unknown father was by publication. Shortly before trial, Mother identified RB as a potential father, and the Department notified the court that genetic testing identified him as SSO's biological father, but the court entered an order terminating the parental rights of Mother and the unknown father. RB did not appeal or directly challenge that order and later attempted to object to the foster parents' adoption of SSO.

PROCEDURAL HISTORY

The district court previously terminated the parental rights of SSO's mother and unknown father. RB, later identified as the biological father, did not appeal or directly challenge the termination order. After the foster parents filed an adoption petition, RB entered an appearance and objected, asserting that he had not been properly served in the termination case. The adoption court stayed the proceedings to permit RB to challenge the termination order in the proper forum, but he did not do so; the court then struck his appearance and objection and entered the final decree of adoption.

DISPOSITION

affirmed

CASES CITED

- In Interest of SO, 2016 WY 99, 382 P.3d 51 (Wyo. 2016)
- In re SSO, 2015 WY 124, 357 P.3d 754 (Wyo. 2015)

- In re Estate & Guardianship of Andrews, 2002 WY 17, 39 P.3d 1021 (Wyo. 2002)
- Travis v. Estate of Travis, 79 Wyo. 329, 334 P.2d 508 (Wyo. 1959)
- Moore v. State, 2009 WY 108, 215 P.3d 271 (Wyo. 2009)
- Rogers v. City of Cheyenne, 747 P.2d 1137 (Wyo. 1987)
- Hoke v. Motel 6 Jackson, 2006 WY 38, 131 P.3d 369 (Wyo. 2006)
- In re Adoption of JRH, 2006 WY 89, 138 P.3d 683 (Wyo. 2006)
- Matter of Adoption of CJH, 778 P.2d 124 (Wyo. 1989)
- Northern Laramie Range Found. v. Converse Cty. Bd. of Cty. Comm'rs, 2012 WY 158, 290 P.3d 1063 (Wyo. 2012)
- In re JW, 2010 WY 28, 226 P.3d 873 (Wyo. 2010)
- Lehr v. Robertson, 463 U.S. 248, 103 S. Ct. 2985, 77 L. Ed. 2d 614 (1983)
- Smith v. Organization of Foster Families for Equality & Reform, 431 U.S. 816, 97 S. Ct. 2094, 53 L. Ed. 2d 14 (1977)
- Matter of Adoption of MSVW, 965 P.2d 1158 (Wyo. 1998)