

MICHIGAN SUPREME COURT

Department of Human Services v. Carrie Smyth

SC 141818; COA 295077 · No. SC 141818; COA 295077 · Decided November 12, 2010

SUMMARY

The Michigan Supreme Court denied leave to appeal in a child-protection case involving termination of a mother's parental rights to three children. Justice Corrigan, joined by Justice Cavanagh, dissented and would have granted review to address the quantum of proof required for determining whether termination is in a child's best interests under MCL 712A.19b(5).

CASE DETAILS

COURT	Michigan Supreme Court
WRITING FOR THE COURT	Marilyn Kelly, Chief Justice; Michael F. Cavanagh; Maura D. Corrigan; Robert P. Young, Jr.; Stephen J. Markman; Diane M. Hathaway
JURISDICTION	Michigan
DECIDED	November 12, 2010
DOCKET	SC 141818; COA 295077
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Respondent appealed the termination of her parental rights, and the Michigan Supreme Court denied her application for leave to appeal from the Michigan Court of Appeals judgment.
PRECEDENTIAL VALUE	The majority disposition is an order denying leave to appeal; the substantive legal analysis appears only in a dissent and is not a holding.
PARTIES	Carrie Smyth v. Department of Human Services

TOPICS

- termination of parental rights
- family law procedure
- statutory interpretation
- appellate procedure

PRACTICE AREAS

- family law
- termination of parental rights
- appellate procedure
- statutory interpretation

QUESTIONS PRESENTED

1. Whether the Michigan Supreme Court should grant leave to review the termination of respondent's parental rights.
2. Whether Michigan law requires the prosecution to establish by clear and convincing evidence that termination of parental rights is in a child's best interests under MCL 712A.19b(5), when the statute does not expressly specify the applicable quantum of proof.

KEY QUOTATIONS

“On order of the Court, the application for leave to appeal the September 7, 2010 judgment of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.” (1109)

FACTUAL BACKGROUND

Respondent's infant twins were removed from her care after one infant was brought to a hospital with a broken leg; although respondent promptly sought medical attention and was not present when the injury occurred, the trial court found that she had failed to protect the child from his abusive father. The court later authorized removal of respondent's new baby, born to a different father. Respondent participated with some success in a Department of Human Services Parent-Agency Agreement but had lapses in compliance. The trial court found that termination was in the children's best interests despite recognizing respondent's positive qualities, educational efforts, establishment of a home, and substantial participation in required services.

PROCEDURAL HISTORY

The Oakland County Circuit Court, Family Division, terminated respondent's parental rights to her three children after finding termination to be in the children's best interests. The Court of Appeals entered judgment on September 7, 2010. The Michigan Supreme Court denied respondent's application for leave to appeal because it was not persuaded that the questions presented should be reviewed. Justice Corrigan dissented and would have granted leave.

DISPOSITION

writ_denied