

DISTRICT OF COLUMBIA COURT OF APPEALS

In re H.C.; K.C.

187 A.3d 1254 (D.C. 2018) · No. 17-FS-892 · Decided July 5, 2018

SUMMARY

The District of Columbia Court of Appeals affirmed an order changing the permanency goal for H.C. from reunification with the mother, K.C., to adoption. The court held that the Americans with Disabilities Act and Rehabilitation Act protect parents with disabilities from discriminatory restrictions on parental rights and require reasonable accommodations, but do not require reunification when reasonable accommodations cannot eliminate a significant risk to the child's health and safety. The court concluded that the evidence supported the finding that K.C. could not safely parent H.C. despite extensive services and reasonable efforts by the District.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Glickman, Associate Judge; McLeese, Associate Judge; Ruiz, Senior Judge
JURISDICTION	District of Columbia
DECIDED	July 5, 2018
DOCKET	17-FS-892
DISPOSITION	affirmed
PROCEDURAL POSTURE	K.C. appealed from a Superior Court order affirming a magistrate judge's decision to change H.C.'s permanency goal from reunification to adoption. She argued that the change violated Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act because she could parent with reasonable accommodations.
STANDARD OF REVIEW	Questions of law are reviewed de novo. Factual findings are upheld unless clearly erroneous. A permanency-goal decision is reviewed for abuse of discretion and will be affirmed if it falls within the range of permissible alternatives, is based on relevant factors, and does not rely on improper factors.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	K.C. v. District of Columbia

TOPICS

ada / disability

parental rights

family law procedure

appellate procedure

standard of review

PRACTICE AREAS

family law

disability discrimination

child welfare

appellate procedure

QUESTIONS PRESENTED

1. Whether Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act require reasonable accommodations for a parent with intellectual and psychiatric disabilities in reunification services and permanency proceedings.
2. Whether the trial court violated those statutes by finding that K.C. had not made adequate progress toward reunification and changing H.C.'s permanency goal to adoption.
3. Whether the evidence supported the finding that K.C. could not safely and effectively parent H.C. even with the services and accommodations provided or available.

HOLDINGS

1. Title II of the ADA and Section 504 of the Rehabilitation Act protect parents with intellectual and psychiatric disabilities from discriminatory curtailment of parental rights and require reasonable accommodations that provide them an equal opportunity to achieve reunification.
2. The ADA and Rehabilitation Act do not require reunification when, based on an individualized assessment and objective evidence, a parent with a disability poses a significant risk to the child's health or safety that cannot be eliminated by reasonable accommodations.
3. The trial court did not violate the ADA or Rehabilitation Act and did not abuse its discretion in changing H.C.'s permanency goal to adoption because the evidence showed that, despite individualized services and support, K.C. had not made adequate progress and could not safely and effectively parent H.C. then or in the foreseeable future.

KEY QUOTATIONS

“But where, as in this case, the evidence supports a finding that a mentally impaired parent poses a significant risk to a child’s health and safety that cannot be eliminated by reasonable accommodations, the ADA and the Rehabilitation Act permit the court to decide against pursuing reunification and in favor of a permanency goal of adoption or another suitable placement in the child’s best interest.” (187 A.3d at 1256)

“Importantly, these requirements do not mean the “lowering [of] standards for individuals with disabilities.”” (187 A.3d at 1265)

“The ADA and the Rehabilitation Act do not override that obligation; they incorporate an exception where an individual with a disability poses a “direct threat,” meaning “a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services.”” (187 A.3d at 1267)

FACTUAL BACKGROUND

K.C. had moderate intellectual disability, major depressive disorder with psychotic features, and post-traumatic stress disorder, and H.C. was removed shortly after birth because K.C. was unable to discharge basic parental responsibilities safely. CFSA provided extensive individualized services, including parenting training, visual tools, mental-health services, supportive housing, round-the-clock support for K.C., supervised visitation, and coordinated assistance from multiple providers. After more than a year, K.C. remained unable to perform basic caregiving tasks consistently, recognize H.C.'s needs, maintain a safe environment, or make necessary medical and educational decisions without prompting and supervision. The evidence also showed that the available service providers could support K.C. but could not act as surrogate parents or assume responsibility for H.C.'s care.

PROCEDURAL HISTORY

CFSA removed H.C. from K.C.'s care shortly after birth and filed a neglect petition based on K.C.'s intellectual disability and mental-health needs. The Superior Court adjudicated H.C. neglected, initially set reunification as the permanency goal, and later changed the goal to adoption after an evidentiary permanency hearing at which it found that CFSA had provided a reasonable reunification plan, made reasonable efforts, and that K.C. had not made adequate progress. An Associate Judge affirmed the magistrate judge's decision, and the District of Columbia Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- *In re Ta.L.*, 149 A.3d 1060, 1078-81 (D.C. 2016) (en banc)
- *In re M.V.H.*, 143 A.3d 94, 97 (D.C. 2016)
- *Fry v. Napoleon Community Schools*, 137 S. Ct. 743, 749 (2017)
- *Alexander v. Choate*, 469 U.S. 287, 299-301 (1985)
- *Lucy J. v. State Department of Health & Social Services*, 244 P.3d 1099, 1115-16 (Alaska 2010)
- *People ex rel. C.Z.*, 360 P.3d 228, 234 (Colo. App. 2015)
- *In re Elijah C.*, 165 A.3d 1149, 1164-66 (Conn. 2017)
- *Adoption of Gregory*, 747 N.E.2d 120, 125-26 (Mass. 2001)
- *In re Hicks/Brown*, 893 N.W.2d 637, 640, 642 (Mich. 2017)
- *State ex rel. K.C. v. State*, 362 P.3d 1248, 1252-54 (Utah 2015)
- *School Board of Nassau County v. Arline*, 480 U.S. 273, 285, 288 (1987)