

SUPREME COURT OF ARKANSAS

Arkansas Department of Human Services v. Cox

82 S.W.3d 806, 349 Ark. 205 (2002) · No. No. 01-1021 · Decided June 6, 2002

SUMMARY

The Supreme Court of Arkansas held that the Greene County Probate Court had jurisdiction to consider Joyce Cox’s guardianship petition concerning a child born in Arkansas. It further held that a Florida ex parte order directing that the child be taken into custody was void and was not entitled to full faith and credit because it lacked jurisdictional validity and had not been registered or enforced in Arkansas under the UCCJEA. The court affirmed the probate court’s orders.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Jim Hannah; Glaze; Imber
JURISDICTION	Arkansas
DECIDED	June 6, 2002
DOCKET	No. 01-1021
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Arkansas Department of Human Services appealed orders of the Greene County Probate Court concerning temporary and permanent guardianship of a minor child and the enforcement of a Florida ex parte order directing that the child be taken into custody and returned to Florida.
STANDARD OF REVIEW	Probate proceedings are reviewed de novo, and the probate court's decision will not be reversed unless clearly erroneous. The appellate court gives due regard to the probate judge's superior position to assess witness credibility.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential.
PARTIES	Arkansas Department of Human Services v. Joyce Cox

TOPICS

- guardianship procedure
- probate procedure
- guardianships
- interstate disputes
- federalism

PRACTICE AREAS

guardianship

interstate child custody

probate

civil procedure

federalism

QUESTIONS PRESENTED

1. Whether the Greene County Probate Court had jurisdiction under the UCCJEA and PKPA to consider Cox's guardianship petition.
2. Whether Florida had jurisdiction based on its existing dependency-neglect proceedings involving Cheyenne's siblings or the Florida ex parte order.
3. Whether the Florida ex parte order was a child-custody determination enforceable in Arkansas.
4. Whether DHS could execute the Florida order without registration, notice, a hearing, or an Arkansas court order.
5. Whether the Florida order was entitled to full faith and credit in Arkansas.

HOLDINGS

1. The Greene County Probate Court had jurisdiction to consider the guardianship petition because Arkansas was the child's home state. Florida did not have jurisdiction under the UCCJEA or PKPA merely because it had proceedings involving the child's siblings or the child's parents.
2. The Florida ex parte order directing that Cheyenne be taken into custody was void ab initio, invalid on its face, and was not a child-custody determination enforceable under the UCCJEA.
3. Even if the Florida order had been valid, it was not entitled to full faith and credit in Arkansas because it had not been registered or enforced through the procedures required by the UCCJEA. DHS lacked authority to execute the order on its own.

KEY QUOTATIONS

"We further hold that the Florida ex parte order at issue was void ab initio and invalid on its face." (809)

"Enforcement of foreign child-custody determinations is not a self-help process." (815)

"DHS is utterly without authority to execute an order from a foreign jurisdiction on its own." (817)

FACTUAL BACKGROUND

DHS removed an infant, Cheyenne, from the home of her paternal grandmother, Joyce Cox, relying on an ex parte Florida order directing Florida sheriffs or other law-enforcement agencies to take the child into custody. Cheyenne had been born in Arkansas and had never lived in or visited Florida, and DHS did not claim that she was in immediate danger or that the Florida order had been registered or enforced in Arkansas. After Cox petitioned for guardianship, the Arkansas probate court ordered DHS to return the child, but DHS transported her to Florida authorities instead.

PROCEDURAL HISTORY

The Greene County Probate Court granted Joyce Cox temporary guardianship, later appointed her guardian, refused to dismiss the guardianship proceeding, and refused to give effect to the Florida ex parte order. DHS took the child from Cox without an Arkansas warrant or order and delivered her to Florida authorities despite an Arkansas order directing the child's return. The Supreme Court of Arkansas affirmed the probate court.

DISPOSITION

affirmed

CASES CITED

- Dillard v. Nix, 345 Ark. 215, 45 S.W.3d 359 (2001)
- Amant v. Callahan, 341 Ark. 857, 20 S.W.3d 896 (2000)
- Perez v. Tanner, 332 Ark. 356, 965 S.W.2d 90 (1998)
- In re Unborn Child of Starks, 18 P.3d 342 (Okla. 2001)
- Stone v. Stone, 636 N.W.2d 594 (Minn. Ct. App. 2001)
- Morrell v. Mock, 270 F.3d 1090 (7th Cir. 2001)
- Hollingsworth v. Hill, 110 F.3d 733 (10th Cir. 1997)
- Rice v. Rice, 213 Ark. 981, 214 S.W.2d 235 (1948)
- Tolley v. Wilson, 212 Ark. 163, 205 S.W.2d 177 (1947)