

SUPREME COURT OF UTAH

Navajo Nation v. State of Utah

245 P.3d 711 (Utah 2010); 2010 UT 55 · No. No. 20080211 · Decided September 28, 2010

SUMMARY

The Supreme Court of Utah dismissed the Navajo Nation's appeal from an adoption order involving two enrolled Navajo children because the Nation did not timely file a notice of appeal bearing its signature. The court held that the Indian Child Welfare Act does not preempt Utah's notice-of-appeal requirements and that those requirements apply to Indian tribes. The court also concluded that Utah law permitted the Nation to appeal the adoption order, but the Nation's failure to comply with the applicable procedural rules deprived the court of jurisdiction.

CASE DETAILS

COURT	Supreme Court of Utah
WRITING FOR THE COURT	Justice Nehring; Chief Justice Durham; Associate Chief Justice Durrant; Justice Parrish; Justice Wilkins
JURISDICTION	Utah
DECIDED	September 28, 2010
DOCKET	No. 20080211
DISPOSITION	dismissed
PROCEDURAL POSTURE	The Navajo Nation appealed a Utah juvenile court adoption decree involving two Navajo children. The Utah Supreme Court considered the appeal after the Utah Court of Appeals certified it, but dismissed the appeal for lack of jurisdiction because the Nation did not timely file a notice of appeal bearing its signature.
STANDARD OF REVIEW	Whether the court has appellate jurisdiction is a question of law that may be raised for the first time on appeal. Federal preemption questions are reviewed de novo. When jurisdiction is absent, the court has authority only to dismiss the appeal.
PRECEDENTIAL VALUE	published
PARTIES	Navajo Nation v. State of Utah

TOPICS

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QUESTIONS PRESENTED

1. Whether the Indian Child Welfare Act preempts Utah's notice-of-appeal requirements.
2. Whether the Navajo Nation, as a quasi-sovereign Indian tribe, was exempt from Utah's requirements that a notice of appeal be timely filed and signed by the appellant.
3. Whether the adoptive parents were entitled to attorney fees and costs under Utah Rule of Appellate Procedure 33.

HOLDINGS

1. The Indian Child Welfare Act does not preempt Utah's notice-of-appeal requirements. ICWA does not expressly or impliedly occupy the field of state appellate procedure, does not conflict with Utah's timely-signature requirements, and does not otherwise override those requirements.
2. Indian tribes are not exempt from Utah's notice-of-appeal requirements. The Nation's quasi-sovereign status did not excuse its failure to file a timely notice of appeal bearing its signature or to file the required certification of diligent search.
3. The adoptive parents were not entitled to attorney fees and costs because the Nation's appeal was neither frivolous nor interposed for purposes of delay.

KEY QUOTATIONS

"When this court lacks jurisdiction over an appeal, it retains only the authority to dismiss the appeal." (at 717)

"Section 1914 gives Indian tribes the right to appeal state court actions 'for foster care placement or termination of parental rights . . . upon a showing that such action violated any provision of sections [1911, 1912, and 1913] of [ICWA].'" (at 720)

"Accordingly, because the Nation did not file its notice of appeal in conformity with Utah's notice of appeal requirements, we are required to dismiss this appeal for lack of jurisdiction." (at 723)

"We hold that the Nation's appeal is neither frivolous nor interposed for the purpose of delay." (at 724)

FACTUAL BACKGROUND

A.B. and D.T. were enrolled members of the Navajo Nation and were removed from their mother's custody after child-welfare proceedings in Utah. The children experienced several placements before being placed with non-Indian foster parents, who later petitioned to adopt them. The Nation participated in portions of the juvenile proceedings and ultimately challenged the adoption and related orders, but its notice of appeal was not timely filed with the Nation's signature.

PROCEDURAL HISTORY

The Utah juvenile court granted non-Indian foster parents' petition to adopt A.B. and D.T. and denied the Nation's requests concerning tribal jurisdiction and ICWA placement preferences. The Nation filed a direct appeal, but its notice of appeal lacked the Nation's signature, and counsel did not file the required certification of diligent search. The Nation later filed an amended notice with its representative's signature outside the permitted period. The court of appeals certified the appeal to the Utah Supreme Court, which dismissed it for lack of jurisdiction and denied the adoptive parents' request for attorney fees and costs.

DISPOSITION

dismissed

CASES CITED

- State v. Holland, 921 P.2d 430, 431 (Utah 1996)
- Brown v. Div. of Water Rights, 2010 UT 14, 228 P.3d 747
- K.L. v. C.L. (In re J.J.L.), 2005 UT App 322, 119 P.3d 315 (per curiam)
- Utah Div. of Consumer Prot. v. Flagship Capital, 2005 UT 76, 125 P.3d 894
- Harmon City, Inc. v. Nielsen & Senior, 907 P.2d 1162 (Utah 1995)
- Hobbs v. Labor Comm'n, 1999 UT App 308, 991 P.2d 590
- English v. Gen. Elec. Co., 496 U.S. 72 (1990)
- Utah Dep't of Human Servs. v. Hughes, 2007 UT 30, 156 P.3d 820
- In re Adoption of Halloway, 732 P.2d 962 (Utah 1986)
- New Mexico v. Mescalero Apache Tribe, 462 U.S. 324 (1983)
- Mount Olivet Cemetery Ass'n v. Salt Lake City, 164 F.3d 480 (10th Cir. 1998)
- In re Adoption of Erin G., 140 P.3d 886 (Alaska 2006)
- In re Adoption of T.N.F., 781 P.2d 973 (Alaska 1989)
- Sonoma Cnty. Human Servs. Dep't v. Evita H. (In re Brandon M.), 54 Cal. App. 4th 1387, 63 Cal. Rptr. 2d 671 (1997)
- In re J.D.B., 584 N.W.2d 577 (Iowa Ct. App. 1998)
- A.D.T. v. State (State ex rel. C.D.), 2008 UT App 477, 200 P.3d 194
- Miss. Band of Choctaw Indians v. Holyfield, 490 U.S. 30 (1989)
- Navajo Nation v. Superior Court, 47 F. Supp. 2d 1233 (E.D. Wash. 1999)
- State v. C.A. (State ex rel. S.L.), 1999 UT App 390, 995 P.2d 17
- J.R. v. State (State ex rel. D.E.), 2006 UT App 391, 147 P.3d 462 (per curiam)
- C.F. v. State (State ex rel. A.M.), 2005 UT App 2, 106 P.3d 193 (per curiam)

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