

SUPREME COURT OF HAWAII

In the Interest of RGB, A Minor

229 P.3d 1066 (Haw. 2010) · No. No. 28582 · Decided April 1, 2010

SUMMARY

The Supreme Court of Hawai‘i considered whether the family court abused its discretion in denying a mother's HFCR Rule 60(b)(6) motion for relief from an order terminating her parental rights. The mother alleged ineffective assistance of counsel in the termination proceeding and direct appeal, and challenged restrictions on access to confidential records. The court held that she had a constitutional right to counsel under the circumstances, that Rule 60(b)(6) was an appropriate vehicle for her claim, and that the family court properly denied relief and limited access to post-termination records.

CASE DETAILS

COURT	Supreme Court of Hawai'i
WRITING FOR THE COURT	Recktenwald, J.; Moon, C.J.; Nakayama, J.; Acoba, J.
JURISDICTION	Hawaii
DECIDED	April 1, 2010
DOCKET	No. 28582
DISPOSITION	affirmed
PROCEDURAL POSTURE	Mother sought review by writ of certiorari of the Intermediate Court of Appeals' judgment affirming the Family Court's denial of her motion for relief from the order terminating her parental rights.
STANDARD OF REVIEW	Denial of an HFCR Rule 60(b)(6) motion is reviewed for abuse of discretion. An abuse of discretion occurs when the trial court clearly exceeds the bounds of reason or disregards governing legal rules or principles to the substantial detriment of a party.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Mother v. Department of Human Services

TOPICS

termination of parental rights parental rights family law procedure procedural due process appellate procedure

PRACTICE AREAS

family law

constitutional law

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remedies

QUESTIONS PRESENTED

1. Whether Mother had a constitutional due-process right to appointed counsel in the termination proceedings.
2. Whether HFCR Rule 60(b)(6) was an appropriate procedural vehicle for raising ineffective assistance of counsel in a parental-rights termination case.
3. What standard governs ineffective-assistance claims in parental-rights termination proceedings.
4. Whether the Family Court abused its discretion by denying Mother's Rule 60(b)(6) motion based on ineffective assistance of counsel.
5. Whether the Family Court abused its discretion by limiting Mother's access to post-termination confidential court records.

HOLDINGS

1. Under the circumstances of this case, due process under the United States Constitution required that Mother be provided appointed counsel during the parental-rights termination proceedings.
2. In the circumstances of this case, an HFCR Rule 60(b)(6) motion was an appropriate vehicle for raising ineffective assistance of counsel in a parental-rights termination proceeding.
3. When a claim of ineffective assistance is raised in a parental-rights termination case, the inquiry is whether counsel's incompetence rendered the proceedings fundamentally unfair.
4. Mother failed to establish that pre-termination counsel was ineffective or that the Family Court abused its discretion in denying relief.
5. Although appellate counsel did not provide effective assistance, Mother failed to show that the proceedings were fundamentally unfair or that Rule 60(b)(6) relief was warranted.
6. The Family Court did not abuse its discretion by limiting Mother's prospective access to confidential post-termination court records while permitting access to records relevant to appellate review.

KEY QUOTATIONS

“Because the family court properly determined that Mother had a right to counsel under the United States Constitution, we decline to reach the question of whether the Hawai`i Constitution provides indigent parents a right to counsel in all termination proceedings.” (1083)

“We further hold that the proper inquiry when a claim of ineffectiveness of counsel is raised in a termination of parental rights case is whether the proceedings were fundamentally unfair as a result of counsel's incompetence.” (1090)

“Rather, the failure of appellate counsel to file an appeal in a termination of parental rights case must be viewed in the broader context of whether the family court proceeding was fundamentally unfair.” (1092)

FACTUAL BACKGROUND

RGB was removed from Mother's care in 2001 after being found dirty and inadequately clothed while in the care of Mother's former boyfriend, who had substance-abuse and serious mental-health problems. RGB was later returned to Mother under supervision but was placed in foster custody in April 2002 and remained with the same foster family. The Family Court found that Mother's mental-health condition, behavior, and interactions during visitation caused RGB substantial psychological distress, leading the court to suspend visitation and later terminate Mother's parental rights. By the time Mother sought Rule 60(b)(6) relief, RGB had lived with the same foster family for nearly five years and the foster parents sought to adopt her.

PROCEDURAL HISTORY

The Family Court for the Third Circuit terminated Mother's parental rights on March 11, 2005. Mother later filed motions seeking relief under HFCR Rule 60, alleging ineffective assistance of counsel and challenging restrictions on access to court records. The Family Court denied relief, and the ICA affirmed in a summary disposition order and judgment. The Supreme Court of Hawai'i granted review and affirmed the ICA's judgment.

DISPOSITION

affirmed

CASES CITED

- *Lassiter v. Department of Social Services*, 452 U.S. 18, 101 S. Ct. 2153, 68 L. Ed. 2d 640 (1981)
- *Mathews v. Eldridge*, 424 U.S. 319, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976)
- *In re Doe*, 99 Hawai'i 522, 57 P.3d 447 (2002)
- *In re "A" Children*, 119 Hawai'i 28, 193 P.3d 1228 (App. 2008)
- *Pratt v. Pratt*, 104 Hawai'i 37, 84 P.3d 545 (2004)
- *Hayashi v. Hayashi*, 4 Haw. App. 286, 666 P.2d 171 (1983)
- *Nakata v. Nakata*, 3 Haw. App. 51, 641 P.2d 333 (1982)
- *Strickland v. Washington*, 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984)
- *State ex rel. Juvenile Department of Multnomah County v. Geist*, 310 Or. 176, 796 P.2d 1193 (1990)
- *Roe v. Flores-Ortega*, 528 U.S. 470, 120 S. Ct. 1029, 145 L. Ed. 2d 985 (2000)
- *Baker v. Marion County Office of Family & Children*, 810 N.E.2d 1035 (Ind. 2004)
- *Lehman v. Lycoming County Children's Services Agency*, 458 U.S. 502, 102 S. Ct. 3231, 73 L. Ed. 2d 928 (1982)
- *Bettencourt v. Bettencourt*, 80 Hawai'i 225, 909 P.2d 553 (1995)
- *State v. Hinton*, 120 Hawai'i 265, 204 P.3d 484 (2009)
- *State v. Wong*, 97 Hawai'i 512, 40 P.3d 914 (2002)
- *Hernandez v. Reno*, 238 F.3d 50 (1st Cir. 2001)
- *Santosky v. Kramer*, 455 U.S. 745, 102 S. Ct. 1388, 71 L. Ed. 2d 599 (1982)

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