

DISTRICT OF COLUMBIA COURT OF APPEALS

In re Sa.C., Ch.Y., & K.C.; S.C., Appellant

In re Sa.C., Ch.Y., & K.C.; S.C., 178 A.3d 460 (D.C. 2018) · No. 17-FS-934, 17-FS-935, & 17-FS-1016 ·

Decided February 8, 2018

SUMMARY

The District of Columbia Court of Appeals denied motions to dismiss and motions for summary affirmance in consolidated neglect-case appeals involving a change in permanency goals from reunification to adoption. The court held that the procedure required by In re Ta.L. applied retroactively to the still-pending case and that the subsequent permanency-goal order was immediately appealable.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Per Curiam; Beckwith, Associate Judge; Easterly, Associate Judge; Washington, Senior Judge
JURISDICTION	District of Columbia
DECIDED	February 8, 2018
DOCKET	17-FS-934, 17-FS-935, & 17-FS-1016
DISPOSITION	other
PROCEDURAL POSTURE	S.C. appealed consolidated orders affirming a magistrate judge's post-hearing change of the permanency goal for her three children from reunification to adoption. The guardian ad litem and the District moved to dismiss or, alternatively, for summary affirmance.
STANDARD OF REVIEW	The opinion applies the District of Columbia's firm rule of retroactivity and discusses the discretionary law-of-the-case doctrine; it does not state a separate conventional standard of appellate review.
PRECEDENTIAL VALUE	published and precedential
PARTIES	S.C. v. Guardian ad litem for Sa.C., Ch.Y., & K.C., District of Columbia

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QUESTIONS PRESENTED

1. Whether the magistrate judge erred by holding an evidentiary hearing under *In re Ta.L.* and applying that decision to a neglect case that was pending when *In re Ta.L.* was issued.
2. Whether the initial permanency-goal change became final, or became binding under the law-of-the-case doctrine, such that *In re Ta.L.* did not apply.
3. Whether S.C. was entitled to an immediate appeal from the new permanency-goal change order.
4. Whether the guardian ad litem's and the District's motions to dismiss or for summary affirmance should be granted.

HOLDINGS

1. The magistrate judge did not err by following the procedure established in *In re Ta.L.* and holding an evidentiary hearing on the permanency-goal change because the neglect case was still pending when *In re Ta.L.* was issued.
2. The initial adverse permanency-goal change did not become final for purposes of the retroactivity analysis merely because S.C. did not appeal that initial order.
3. The law-of-the-case doctrine did not alter the retroactivity analysis and did not preclude reconsideration of the permanency-goal change in light of the change in governing law.
4. S.C. was entitled to an immediate appeal from the new permanency-goal change order.

KEY QUOTATIONS

"We hold that the magistrate judge did not err in following the procedure set forth in In re Ta.L. for permanency goal changes and holding such a hearing." (178 A.3d at 460-61)

"This court has adopted the "firm rule of retroactivity," see Davis v. Moore, 772 A.2d 204, 230 (D.C. 2001) (en banc), which requires it to apply a new judicial decision to any case pending in the trial court or on direct appeal." (178 A.3d at 461)

FACTUAL BACKGROUND

S.C.'s three children were involved in a neglect case in which the permanency goal was changed from reunification to adoption. After the Court of Appeals issued *In re Ta.L.*, the magistrate judge held the evidentiary hearing required by that decision and again determined that adoption was the appropriate permanency goal.

PROCEDURAL HISTORY

Before *In re Ta.L.* was decided, the magistrate judge summarily changed the children's permanency goal from reunification to adoption. After *In re Ta.L.*, the magistrate judge held an evidentiary hearing at S.C.'s request and again ordered the change; an associate judge affirmed on judicial review, and S.C. filed consolidated appeals.

The Court of Appeals denied the motions to dismiss and the alternative motions for summary affirmance and directed the guardian ad litem and the District to advise whether they intended to file briefs.

DISPOSITION

other

REMAND INSTRUCTIONS

The motions to dismiss and alternative motions for summary affirmance were denied. The guardian ad litem and the District were ordered to advise the court within ten days whether they intended to file their motions as their briefs, or alternatively to file briefs within thirty days.

CASES CITED

- In re Ta.L., 149 A.3d 1060 (D.C. 2016) (en banc)
- Davis v. Moore, 772 A.2d 204 (D.C. 2001) (en banc)
- Griffith v. Kentucky, 479 U.S. 314 (1987)
- Harper v. Virginia Department of Taxation, 509 U.S. 86 (1993)
- Kleinbart v. United States, 604 A.2d 861 (D.C. 1992)
- Minick v. United States, 506 A.2d 1115 (D.C. 1986)
- In re Baby Boy C., 630 A.2d 670 (D.C. 1993)
- Oliver T. Carr Management, Inc. v. National Delicatessen, Inc., 397 A.2d 914 (D.C. 1979)
- Linkletter v. Walker, 381 U.S. 618 (1965)
- Stovall v. Denno, 388 U.S. 293 (1967)
- Chevron Oil Co. v. Huson, 404 U.S. 97 (1971)

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