

SUPREME COURT OF DELAWARE

Moore v. Hall

62 A.3d 1203 (Del. 2013) · Decided February 15, 2013

SUMMARY

The Delaware Supreme Court held that an indigent parent in a termination-of-parental-rights proceeding who has a due process right to appointed counsel is entitled to procedural safeguards before counsel is withdrawn. The Family Court failed to determine whether substitute counsel was warranted and failed to establish that the father knowingly and intelligently waived or forfeited his right to counsel. The judgment terminating parental rights was reversed and remanded for a new hearing with appointed counsel unless a valid waiver or forfeiture is established.

CASE DETAILS

COURT	Supreme Court of Delaware
WRITING FOR THE COURT	Holland, Justice; Berger; Glasscock; Holland; Jacobs; Ridgely
JURISDICTION	Delaware
DECIDED	February 15, 2013
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Father appealed from a Family Court final judgment terminating his parental rights after the Family Court permitted his court-appointed counsel to withdraw, denied a continuance, and required him to proceed pro se with standby counsel.
STANDARD OF REVIEW	The Supreme Court reviewed whether the procedures used by the Family Court satisfied constitutional due process; the opinion applied a case-by-case analysis under the Mathews v. Eldridge factors.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Delaware.
PARTIES	Christopher Moore v. Charlene M. Hall

TOPICS

termination of parental rights

parental rights

procedural due process

appellate procedure

standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Family Court violated the Father's federal and Delaware constitutional due process rights by permitting appointed counsel to withdraw and requiring the indigent, incarcerated Father to proceed pro se without determining whether he was entitled to substitute counsel or had knowingly and intelligently waived or forfeited his right to counsel.
2. Whether the record supported termination of the Father's parental rights.

HOLDINGS

1. After determining on a case-by-case basis that an indigent parent has a due process right to appointed counsel, the Family Court must conduct two separate inquiries: whether good cause justifies substitute counsel and whether the parent knowingly and intelligently waives the right to counsel before proceeding pro se.
2. Appointment of standby counsel is not an acceptable substitute for a valid, knowing, and intelligent waiver or forfeiture of an indigent parent's due process right to appointed counsel in a termination proceeding.
3. The Family Court violated the Father's due process rights because the record did not establish that he knowingly and intelligently waived or forfeited his right to appointed counsel.

KEY QUOTATIONS

“In a termination proceeding, when an indigent parent requests the appointment of new counsel, or, in the alternative, seeks to represent himself or herself, the Family Court must engage in two separate lines of inquiry.” (1210)

“Accordingly, we hold that the appointment of standby counsel for the Father was not an acceptable alternative to a valid waiver of the due process right to appointed counsel.” (1211)

“Therefore, the judgment of the Family Court must be reversed.” (1212)

FACTUAL BACKGROUND

The Father and Mother were never married. Their child was born in August 2005, and the Father had not seen the child since the child was nine months old; the Father was incarcerated on a thirteen-year burglary sentence. After the Family Court appointed counsel for the indigent Father in the termination proceeding, counsel sought to withdraw based on a breakdown in the attorney-client relationship and requested a continuance. The Family Court permitted withdrawal, denied the continuance, told the Father he would represent himself if he did not hire counsel, and provided only advisory standby counsel; the Father, who had a fourth-grade education, conducted almost no defense at the hearing.

PROCEDURAL HISTORY

The Mother petitioned the Delaware Family Court to terminate the Father's parental rights. The Family Court appointed counsel for the indigent Father, later permitted counsel to withdraw, denied a continuance, and conducted the termination hearing with the Father proceeding pro se and appointed counsel serving only as standby counsel. The Family Court terminated the Father's parental rights on abandonment and failure-to-plan grounds. The Delaware Supreme Court reversed because the Father did not knowingly and intelligently waive or forfeit his due process right to appointed counsel, and remanded for a new hearing with appointed counsel.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Family Court must conduct a new termination-of-parental-rights hearing after appointing counsel for the Father, unless the record establishes that the Father validly waived or forfeited his due process right to appointed counsel.

CASES CITED

- Gannon v. State, 704 A.2d 272, 278 (Del. 1998)
- Black v. Division of Child Support Enforcement, 686 A.2d 164, 168 (Del. 1996)
- Lassiter v. Department of Social Services, 452 U.S. 18, 26-27, 31 (1981)
- Gagnon v. Scarpelli, 411 U.S. 778, 788 (1973)
- Watson v. Division of Family Services, 813 A.2d 1101, 1107-08, 1111-12 (Del. 2002)
- Lolly v. State, 611 A.2d 956, 959-60 (Del. 1992)
- Hammond v. State, 569 A.2d 81, 87 (Del. 1989)
- Debeiry v. State, 457 A.2d 744, 751-52 (Del. 1983)
- In re Carolyn S.S., 498 A.2d 1095, 1098 (Del. 1984)
- Mathews v. Eldridge, 424 U.S. 319, 335 (1976)
- Waters v. Division of Family Services, 903 A.2d 720, 725 (Del. 2006)
- Michigan v. Long, 463 U.S. 1032, 1042 (1983)
- Wilson v. Division of Family Services, 988 A.2d 435, 443 (Del. 2010)
- Santosky v. Kramer, 455 U.S. 745, 754 (1982)
- Farley v. Department of Services for Children, Youth & Their Families, 765 A.2d 951, 2000 WL 1862231, at *1 (Del. Dec. 15, 2000) (table)
- In re Heller, 669 A.2d 25, 32 (Del. 1995)
- Orville v. Division of Family Services, 759 A.2d 595, 598 (Del. 2000)
- Briscoe v. State, 606 A.2d 103, 107-08 (Del. 1992)
- United States v. Welty, 674 F.2d 185, 187-89, 191 (3d Cir. 1982)
- Buitrón v. State, 897 A.2d 758, 763 (Del. 2006)
- Johnson v. Zerbst, 304 U.S. 458, 465, 467-68 (1938)

- *Faretta v. California*, 422 U.S. 806, 834 n.46 (1975)
- *Pennell v. State*, 604 A.2d 1368, 1371 (Del. 1992)
- *United States ex rel. Axselle v. Redman*, 624 F. Supp. 332, 338 (D. Del. 1985)
- *Brown v. Division of Family Services*, 803 A.2d 948, 959-60 (Del. 2002)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/delaware-supreme-court-of-delaware/2013/moore-v-hall-pdptt980>