

SUPREME COURT OF ALASKA

Amy S. v. State, Department of Health & Social Services, Office of Children's Services

Amy S. v. State, Dep't of Health & Soc. Servs., Office of Children's Servs., 440 P.3d 273 (Alaska 2019) ·
Decided April 26, 2019

SUMMARY

The Alaska Supreme Court affirmed a superior court's adjudication of a child as a child in need of aid. Assuming without deciding that the superior court violated the mother's procedural due process rights by relying on information from a prior custody proceeding without adequate notice, the court held that the mother failed to demonstrate prejudice and that any error was harmless.

CASE DETAILS

COURT	Supreme Court of Alaska
WRITING FOR THE COURT	Winfree, Justice; Bolger; Carney; Maassen; Stowers; Winfree
JURISDICTION	Alaska
DECIDED	April 26, 2019
DISPOSITION	affirmed
PROCEDURAL POSTURE	Amy S. appealed the superior court's adjudication of her son as a child in need of aid, arguing that the court violated procedural due process by relying on information from a prior custody proceeding without adequate notice or an opportunity to respond.
STANDARD OF REVIEW	Whether due process rights were violated in a CINA case is reviewed de novo. Any error must be disregarded if it had no substantial effect on the parties' rights or the outcome.
PRECEDENTIAL VALUE	Published Alaska Supreme Court opinion; precedential
PARTIES	Amy S. v. State, Department of Health & Social Services, Office of Children's Services

TOPICS

- family law procedure
- parental rights
- child custody
- procedural due process
- evidence

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Amy preserved her procedural due process challenge when she lacked an adequate opportunity to object in the superior court.
2. Whether Alaska Statute 47.10.113 required the superior court to consider information from prior custody-related proceedings in adjudicating a child in need of aid.
3. Whether the superior court's assumed failure to provide notice and an opportunity to respond to custody-case information required reversal of the CINA adjudication.

HOLDINGS

1. A party who had no adequate opportunity to object to the court's use of information preserves a due process claim for appellate review, and the claim is reviewed de novo.
2. Alaska Statute 47.10.113 does not require a CINA court to take judicial notice of or consider factual matters from prior custody-related proceedings.
3. A court may judicially notice the existence and procedural facts of prior court proceedings, but contested factual findings in those records generally are not proper subjects of judicial notice; such information may nevertheless be admitted through an applicable evidentiary rule.
4. Even assuming the superior court violated Amy's procedural due process rights by relying on custody-case information without adequate notice and an opportunity to respond, the error was harmless because Amy failed to show a plausible basis for prejudice.

KEY QUOTATIONS

"Because Amy could not have raised her due process claim before the superior court, we hold that she preserved it for appellate review and we will consider it de novo." (280)

"The statute leaves unaltered CINA Rule 9(a), which provides that the Evidence Rules apply to adjudication hearings." (281)

"Because Amy has raised only 'a theoretical possibility of prejudice,' we hold that any due process violation in this case was harmless error." (283)

FACTUAL BACKGROUND

Zoltan, an 11-year-old child experiencing homicidal and suicidal ideation, was admitted to a hospital after his mother brought him for emergency care. His father, who had legal custody, initially refused consent for treatment, and the Office of Children's Services filed a child-in-need-of-aid petition. After a probable-cause hearing and a contested adjudication hearing, the superior court found that Zoltan had suffered mental injury resulting from his parents' inability to co-parent and Amy's alleged alienating conduct. The superior court relied in part on information from the parents' lengthy custody proceedings without providing Amy a meaningful opportunity to respond to the specific information later summarized in the court's findings.

PROCEDURAL HISTORY

The superior court adjudicated Zoltan a child in need of aid after a contested adjudication hearing. The court later summarized factual findings from the parents' prior custody case, and Amy appealed the adjudication order, challenging the court's consideration of that information. The Alaska Supreme Court reviewed the due process issue de novo and affirmed because any assumed violation was harmless.

DISPOSITION

affirmed

CASES CITED

- Philip J. v. State, Dep't of Health & Soc. Servs., Office of Children's Servs., 264 P.3d 842, 846 (Alaska 2011)
- Jeff A.C., Jr. v. State, 117 P.3d 697, 702 (Alaska 2005)
- Luther v. Lander, 373 P.3d 495, 499 (Alaska 2016)
- Pedersen v. Blythe, 292 P.3d 182, 184 (Alaska 2012)
- Hoffman Constr. Co. of Alaska v. U.S. Fabrication & Erection, Inc., 32 P.3d 346, 351 (Alaska 2001)
- State, Dep't of Health & Soc. Servs., Office of Children's Servs. v. Michelle P., 411 P.3d 576, 586 (Alaska 2018)
- Kyle S. v. State, Dep't of Health & Soc. Servs., Office of Children's Servs., 309 P.3d 1262, 1267 (Alaska 2013)
- Vent v. State, 288 P.3d 752, 755-56 (Alaska App. 2012)
- F.T. v. State, 862 P.2d 857, 864 (Alaska 1993)
- Lee v. City of Los Angeles, 250 F.3d 668, 689-90 (9th Cir. 2001)
- Gonzales v. United States, 348 U.S. 407, 414 n.5 (1955)
- Sarah A. v. State, Dep't of Health & Soc. Servs., Office of Children's Servs., 427 P.3d 771, 778-80 (Alaska 2018)
- Dennis O. v. Stephanie O., 393 P.3d 401, 406 (Alaska 2017)
- D.M. v. State, Div. of Family & Youth Servs., 995 P.2d 205, 210-13 (Alaska 2000)
- Mathews v. Eldridge, 424 U.S. 319, 335 (1976)
- Liteky v. United States, 510 U.S. 540, 551, 555 (1994)
- Hanson v. Hanson, 36 P.3d 1181, 1184 (Alaska 2001)