

SUPREME COURT OF TEXAS

In the Interest of L.M.I. and J.A.I., Minor Children

119 S.W.3d 707 (Tex. 2003) · No. No. 02-0244 · Decided September 18, 2003

SUMMARY

The document concerns the termination of Ricardo Duenas’s and Luz Maria Inocencio’s parental rights based on affidavits of relinquishment. The dissent argues that Duenas preserved a legal-sufficiency challenge and that termination required clear and convincing evidence that his English-language affidavit was knowingly, intelligently, and voluntarily executed. It also addresses the constitutional and statutory burdens of proof applicable to parental-rights termination proceedings.

CASE DETAILS

COURT	Supreme Court of Texas
WRITING FOR THE COURT	Justice Priscilla R. Owen
JURISDICTION	Texas
DECIDED	September 18, 2003
DOCKET	No. 02-0244
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petition for review of a court of appeals judgment affirming a trial-court order terminating the biological parents' parental rights and appointing prospective adoptive parents as managing conservators.
STANDARD OF REVIEW	Legal sufficiency review under the clear-and-convincing-evidence standard: whether a reasonable factfinder could have formed a firm belief or conviction that the challenged finding was true, viewing the evidence in the light most favorable to the finding and considering the entire record.
PRECEDENTIAL VALUE	Published separate opinion; Justice Owen's reasoning is non-majority and therefore not independently binding.
PARTIES	Ricardo Duenas, Luz Maria Inocencio v. Miles Montegut, Monica Montegut

TOPICS

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

PRACTICE AREAS

family law

constitutional law

appellate procedure

evidence

QUESTIONS PRESENTED

1. Whether Duenas preserved a legal sufficiency challenge to the finding that his affidavit of relinquishment was knowingly and voluntarily executed.
2. Whether termination of parental rights based on an affidavit of relinquishment requires clear and convincing evidence that the affidavit was knowingly, intelligently, and voluntarily executed.
3. Whether the ultimate burden of proving the voluntariness of a challenged affidavit of relinquishment may be shifted to the parent who signed it.
4. Whether the record contained legally sufficient clear and convincing evidence that Duenas knowingly and voluntarily executed his affidavit.
5. Whether Inocencio preserved and could prevail on a legal sufficiency challenge based on alleged undue influence, fraud, coercion, and unenforceable promises.

HOLDINGS

1. Justice Owen would hold that Duenas preserved a legal sufficiency challenge even though he did not use precise constitutional or sufficiency terminology in every filing; his briefs fairly presented the complaint that there was no clear and convincing evidence that his affidavit was knowingly and voluntarily executed.
2. Justice Owen would hold that the ultimate burden remains on the party seeking termination to prove by clear and convincing evidence that the affidavit of relinquishment was knowingly and voluntarily executed; that burden cannot be shifted to the parent to prove involuntariness by a preponderance of the evidence.
3. Justice Owen would hold that the evidence was legally insufficient to establish by clear and convincing evidence that Duenas knowingly, intelligently, and voluntarily executed the affidavit of relinquishment, and therefore would reverse the termination of his parental rights.
4. Justice Owen would hold that Inocencio preserved a legal sufficiency challenge, but that the evidence was legally sufficient to support the finding that she voluntarily executed her affidavit without fraud, duress, coercion, or undue influence; the termination order should therefore be affirmed as to her.

KEY QUOTATIONS

“There must be clear and convincing evidence, from the record as a whole, that the affidavit was knowingly and voluntarily executed.” (Part III)

“Shifting the burden of proof to a parent is in irreconcilable conflict with the clear and convincing standard of proof that the United States Supreme Court has said the federal Constitution requires before parental rights can be terminated and that the Texas Legislature has required in parental termination cases.” (Part III)

“A surmise is no evidence at all, much less clear and convincing evidence.” (Part IV)

FACTUAL BACKGROUND

Ricardo Duenas and Luz Maria Inocencio were the biological parents of twins, and prospective adoptive parents Miles and Monica Montegut pursued adoption through private counsel. Duenas and Inocencio signed English-language affidavits of relinquishment that were irrevocable for sixty days, but Duenas could not read English and the material provisions were not translated or explained to him in Spanish. Inocencio later challenged her affidavit based on alleged undue influence, fraud, coercion, and promises concerning post-adoption photographs and updates. The trial court terminated both parents' rights based on the affidavits and appointed the Monteguts managing conservators.

PROCEDURAL HISTORY

The trial court consolidated the prospective adoptive parents' termination suit with a conservatorship proceeding filed by Inocencio's mother. After denying a continuance, the trial court conducted a bench trial shortly before the expiration of the sixty-day irrevocability period in the parents' affidavits of relinquishment, terminated both parents' rights, and appointed the Monteguts managing conservators. The court of appeals affirmed, and the Texas Supreme Court granted review. Justice Owen would have reversed as to Duenas but concurred in affirming as to Inocencio.

DISPOSITION

affirmed

CASES CITED

- In re J.F.C.
- Neal v. Texas Department of Human Services
- B.A.L. v. Edna Gladney Home
- Coleman v. Smallwood
- Pattison v. Spratlan
- Terrell v. Chambers
- Catholic Charities v. Harper
- In re G.M.
- In re Bruno
- Santosky v. Kramer
- Queen v. Goeddertz

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