

SUPREME COURT OF WYOMING

Anastos v. State, Department of Family Services

Anastos v. State, Dep't of Family Servs., 408 P.3d 791 (Wyo. 2018) · Decided January 19, 2018

SUMMARY

The Wyoming Supreme Court affirmed the termination of Kenneth Anastos’s parental rights to his daughter. The court held that clear and convincing evidence supported the jury’s finding that Anastos was an unfit parent while incarcerated under Wyo. Stat. Ann. § 14-2-309(a)(iv). The court also held that the Department of Family Services’ untimely case plan was a harmless rule violation and did not warrant judgment as a matter of law.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Burke, Chief Justice; Davis; Fox; Hill; Kautz
JURISDICTION	Wyoming
DECIDED	January 19, 2018
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a district court order terminating the appellant's parental rights following a jury trial.
STANDARD OF REVIEW	Sufficiency of the evidence supporting termination of parental rights is reviewed under traditional evidentiary principles, viewing the evidence in the light most favorable to the prevailing party, assuming favorable evidence is true, and disregarding conflicting evidence from the unsuccessful party, while strictly scrutinizing the termination petition and requiring clear and convincing evidence. The denial of a motion for judgment as a matter of law is reviewed de novo.
PRECEDENTIAL VALUE	Published Wyoming Supreme Court opinion; precedential
PARTIES	Kenneth Anastos v. State of Wyoming, Department of Family Services

TOPICS

- termination of parental rights
- parental rights
- family law procedure
- appellate procedure
- harmless error

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether sufficient clear and convincing evidence supported the jury's finding that the statutory requirements for termination of Anastos's parental rights were satisfied.
2. Whether the district court abused its discretion or otherwise erred by denying Anastos's motion for judgment as a matter of law based on DFS's failure to timely complete his case plan.

HOLDINGS

1. Termination of Anastos's parental rights was supported by sufficient clear and convincing evidence that he was incarcerated due to a felony conviction and was unfit to have custody and control of AA.
2. A violation of an agency rule requiring timely completion of a case plan does not require reversal of a parental-rights termination unless the parent shows that the violation denied due process or violated a fundamental right; the late case plan was harmless here.

KEY QUOTATIONS

“fitness includes the ability to meet the ongoing physical, mental and emotional needs of the child. Whether a parent is fit to have custody and control of a child is a decision that must be made within the context of a particular case and depends upon the situation and attributes of the specific parent and child.” (¶ 15)

“Rules and regulations have the force and effect of law. An administrative agency, such as DFS, is bound to follow its own rules and regulations.” (¶ 22)

“A person asserting an agency’s rule violations must show how the breach denied her due process or violated her fundamental rights.” (¶ 25)

FACTUAL BACKGROUND

Kenneth Anastos was the legal father of AA, an infant who was placed in the custody of the Department of Family Services and foster care. Anastos had an extensive criminal and incarceration history, recurrent methamphetamine-related parole violations, and had never successfully completed parole or inpatient treatment. He had little contact with AA, failed to satisfy the requirements of his DFS case plan, failed to complete substance-abuse treatment, and did not obtain the negative drug tests required for visitation.

PROCEDURAL HISTORY

The Department of Family Services petitioned to terminate Kenneth Anastos's parental rights. After Anastos demanded a jury trial, the jury found by clear and convincing evidence that the statutory requirements for termination were satisfied under Wyo. Stat. Ann. § 14-2-309(a)(i), (iv), (v), and (vi). The district court entered an order terminating his parental rights, denied his renewed motion for judgment as a matter of law, and the Wyoming Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- RGS v. State, Dep't of Family Servs. (In re KGS), 2017 WY 2, ¶ 14, 386 P.3d 1144, 1147 (Wyo. 2017)
- In re HLL, 2016 WY 43, ¶ 39, 372 P.3d 185, 193 (Wyo. 2016)
- In re AE, 2009 WY 78, ¶ 12, 208 P.3d 1323, 1327 (Wyo. 2009)
- AJJ v. State (In re KMJ), 2010 WY 142, ¶¶ 15, 17, 242 P.3d 968, 971 (Wyo. 2010)
- JLW v. CAB, 2010 WY 9, ¶ 19, 224 P.3d 14, 19 (Wyo. 2010)
- In re Adoption of JLP, 774 P.2d 624, 630 (Wyo. 1989)
- Del Rossi v. Doenz, 912 P.2d 1116, 1119 (Wyo. 1996)
- MB v. Laramie County Dep't of Family Servs., ex rel. LB, 933 P.2d 1126, 1130 (Wyo. 1997)
- Fullmer v. Wyoming Employment Sec. Comm'n, 858 P.2d 1122, 1123-24 (Wyo. 1993)
- MN v. State, Dep't of Family Servs., 2003 WY 135, 78 P.3d 232, 239-40 (Wyo. 2003)

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