

SUPREME COURT OF TEXAS

In the Interest of K.N.R., a Minor Child

113 S.W.3d 365 (Tex. 2003) · No. No. 02-0442 · Decided July 3, 2003

SUMMARY

The Supreme Court of Texas held that a parent’s unpreserved complaint concerning the broad-form submission of termination grounds in a parental-rights termination case was not reviewable on appeal. Relying on *In re B.L.D.*, the court reversed the court of appeals and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Texas
JURISDICTION	Texas
DECIDED	July 3, 2003
DOCKET	No. 02-0442
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Texas Department of Protective and Regulatory Services petitioned for review after the court of appeals reversed a judgment terminating Cherise Jones's parental rights and remanded the case.
STANDARD OF REVIEW	Whether an unpreserved jury-charge complaint could be reviewed on appeal in a parental-rights termination case.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Texas Department of Protective and Regulatory Services v. Cherise Jones

TOPICS

- termination of parental rights
- parental rights
- preservation of error
- appellate procedure
- due process

PRACTICE AREAS

- family law
- civil procedure
- appellate procedure
- constitutional law

QUESTIONS PRESENTED

1. Whether the court of appeals could review Jones's unpreserved complaint that the broad-form submission of alternate termination grounds violated a constitutional right to agreement by ten jurors on

each predicate ground.

2. Whether the preservation-of-error rule and due process required appellate review of the unpreserved jury-charge complaint in a parental-rights termination case.

HOLDINGS

1. A party's complaint about a jury charge in a parental-rights termination case is not preserved when the party failed to object to the charge in the trial court, and the court of appeals may not review the unpreserved complaint.

KEY QUOTATIONS

“Because Jones did not object in the trial court to the charge error of which she complains on appeal, the charge complaint was not preserved and our holding in B.L.D. controls.” (366)

FACTUAL BACKGROUND

The Texas Department of Protective and Regulatory Services sought to terminate Cherise Jones's parental rights to her child, K.N.R. At trial, the jury was instructed that termination required clear and convincing proof of at least one statutory termination ground and that termination was in the child's best interest. The jury received a broad-form termination question, and Jones did not object to the charge.

PROCEDURAL HISTORY

The case was tried to a jury, which received a broad-form question asking whether Jones's parental relationship with K.N.R. should be terminated. Jones did not object to the jury charge in the trial court but raised charge error for the first time on appeal, arguing that the broad-form submission violated a constitutional right to agreement by ten jurors on each predicate ground. The court of appeals reversed and remanded, but the Supreme Court of Texas reversed that judgment and remanded for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the court of appeals for further proceedings consistent with the opinion.

CASES CITED

- In re B.L.D., 56 S.W.3d 203 (Tex. App.—Waco 2001, pet. granted)
- In re B.L.D., 113 S.W.3d 340 (Tex. 2003)

OPINION

PER CURIAM.

113 S.W.3d 365 (2003) *In the Interest of K.N.R., a Minor Child*. No. 02-0442. Supreme Court of Texas. July 3, 2003. Rehearing Denied August 21, 2003. Greg Abbott, Attorney General of Texas, Howard G. Baldwin, First Assistant Attorney General of Texas, Jeffrey S. Boyd, Philip A. Lionberger, Barry Ross McBee, Rafael Edward Cruz, Office of the Attorney General of Texas, Julie Caruthers Parsley, Office of the Solicitor General of Texas, Joseph David Hughes, Assistant Solicitor General, Austin, Charles E. Rice, Department of Protective and Regulatory, Abilene, Jim B. Simpson, Erin K. Lamb, Johnson County Attorney's Office, Cleburne, for petitioner.

Guy Keith Rodgers, Law Office of Guy K. Rodgers, Cleburne, Jeffrey Warren Cochran, Law Office of J. Greg Coontz, Burleson, Ted O. Christopher, Joshua, Tim Altaras, Cleburne, for respondent. Opinion PER CURIAM. The Texas Department of Protective and Regulatory Services brought this suit to terminate the parental rights of Cherise Jones to her child, K.N.R.

The case went to trial before a jury. The charge instructed the jury that the parent-child relationship could be terminated if it was *366 proven by clear and convincing evidence that (1) at least one of five grounds for termination occurred, and (2) termination would be in the best interest of the child.

The sole question submitted to the jury was whether the parent-child relationship between Jones and K.N.R. should be terminated. There was no objection to the form of the charge. On appeal, Jones raised charge error for the first time. Specifically, she argued that the broad-form submission of alternate theories of termination violated a constitutional right to have ten jurors agree on each predicate ground of termination.

A divided court of appeals reversed the trial court judgment and remanded. ___ S.W.3d ___, ___. Relying on its opinion in *In re B.L.D.*, 56 S.W.3d 203 (Tex.App.-Waco 2001, pet. granted), the court held that "the trial court erred in submitting a broad form question to the jury without proper instructions assuring ten or more jurors agreed on the same statutory ground for termination and the same ten also agreed termination was in the best interest of K.N.R." ___ S.W.3d at ___.

Today, in *In re B.L.D.*, 113 S.W.3d 340 (Tex.2003), we hold that our law on preservation of error does not permit, and due process does not require, a court of appeals to review an unpreserved complaint of charge error in parental rights termination cases.

Because Jones did not object in the trial court to the charge error of which she complains on appeal, the charge complaint was not preserved and our holding in *B.L.D.* controls. We hold that the court of appeals erred in reviewing the unpreserved complaint regarding the broad-form submission of the jury verdict.

Therefore, without hearing argument, we grant the petition for review, reverse the court of appeals' judgment, and remand to that court for further proceedings consistent with this opinion. Tex.R.App. P. 59.1.

