

SUPREME COURT OF SOUTH CAROLINA

Jane and John Doe v. Travis Queen, John Roe (Fictitious Name), and Baby Boy Tanner, a Minor under the age of Seven (7) years, 347 S.C.

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552 S.E.2d 761 (2001) · No. No. 25363 · Decided September 17, 2001

SUMMARY

The Supreme Court of South Carolina held that the biological father's consent to adoption was required because he made sufficient prompt and good-faith efforts to assume parental responsibility under the circumstances. The court excused literal compliance with the statutory support requirement, reversed the Court of Appeals, and reinstated the family court's order denying the adoption and providing for transfer of custody to the father. A dissent would have affirmed the Court of Appeals.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Waller, Justice; Toal, Chief Justice; Moore, Justice; Burnett, Justice; Pleicones, Justice
JURISDICTION	South Carolina
DECIDED	September 17, 2001
DOCKET	No. 25363
DISPOSITION	reversed
PROCEDURAL POSTURE	Travis Queen petitioned for a writ of certiorari to review the Court of Appeals' reversal of a family court order holding that his consent to the adoption was required and declining to terminate his parental rights.
STANDARD OF REVIEW	The Supreme Court reviewed the family court's ruling in the certiorari proceeding and determined whether the evidence supported the family court's findings regarding Queen's good-faith efforts to assume parental responsibility.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of South Carolina
PARTIES	Travis Queen v. Jane and John Doe

TOPICS

adoption

parental rights

family law procedure

statutory interpretation

appellate procedure

PRACTICE AREAS

family law

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QUESTIONS PRESENTED

1. Whether Queen made sufficient prompt and good-faith efforts to assume parental responsibility so that his failure to meet the literal support requirements of S.C. Code Ann. section 20-7-1690(A)(5)(b) could be excused.
2. Whether Queen's consent to the adoption was required despite his failure to provide direct monetary support or visitation.
3. Whether the family court properly declined to terminate Queen's parental rights for failure to visit and failure to support.

HOLDINGS

1. A biological father need not strictly comply with the statute's support requirement when extraordinary circumstances beyond his control prevent compliance and he otherwise makes sufficient prompt and good-faith efforts to assume parental responsibility.
2. Queen's consent to adoption was required because he demonstrated sufficient prompt and good-faith efforts to assume parental responsibility, making his failure to provide direct support or visitation insufficient to defeat his parental opportunity interest.
3. Queen's parental rights should not be terminated for failure to visit or support because the evidence showed that his failure was excused by the circumstances and that he made sufficient efforts to assume parental responsibility.

KEY QUOTATIONS

“However, this opportunity interest is constitutionally protected only to the extent that the biological father who claims protection wants to make the commitments and perform the responsibilities that give rise to a developed relationship, because it is only the combination of biology and custodial responsibility that the Constitution ultimately protects.” (347 S.C. 8; 552 S.E.2d at 763)

“To mandate strict compliance with section 20-7-1690(A)(5)(b) would make an unwed father's right to withhold his consent to adoption dependent upon the whim of the unwed mother.” (347 S.C. 9; 552 S.E.2d at 764)

“Given the circumstances of this case, and the fact that the Does were unwilling to reveal their identity or whereabouts, we find Queen took the only reasonably available alternative measures, to wit, establishing a nursery, putting money in a bank account, and taking steps to provide for Tanner when he received custody.” (347 S.C. 10; 552 S.E.2d at 765)

FACTUAL BACKGROUND

Queen lived with Tanner's birth mother during the early part of her pregnancy. The mother told Queen she intended to obtain an abortion, later falsely told him that she had done so, concealed the pregnancy and birth, and was subject to court orders restricting Queen's contact with her. Queen learned of Tanner's birth only after the birth and after the Does' attorney asked him to consent to the adoption; thereafter, he prepared a nursery, arranged for health insurance, and testified that he had set aside or would provide funds for Tanner, although he made no direct monetary support payments and did not visit the child.

PROCEDURAL HISTORY

The Does sought to adopt Baby Boy Tanner, arguing that Queen's consent was unnecessary and alternatively seeking termination of his parental rights. The family court held that Queen's consent was required under South Carolina Code section 20-7-1690 and denied termination under sections 20-7-1572(3) and (4). A two-judge majority of the Court of Appeals reversed, while Judge Howard dissented. The Supreme Court of South Carolina reversed the Court of Appeals and reinstated the family court's order.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The Court of Appeals' opinion was reversed, and the family court's order was reinstated, including the determination that Queen's consent to adoption was required and the order for gradual transfer of custody to Queen.

CASES CITED

- Abernathy v. Baby Boy, 313 S.C. 27, 437 S.E.2d 25 (1993)
- Stanley v. Illinois, 405 U.S. 645, 92 S. Ct. 1208, 31 L. Ed. 2d 551 (1972)
- Doe v. Queen, 342 S.C. 204, 535 S.E.2d 658 (Ct. App. 2000)