

SUPREME COURT OF UTAH

State of Utah in the Interest of W.A.

2002 UT 127, 63 P.3d 607 · No. No. 20010081 · Decided December 20, 2002

SUMMARY

The Utah Supreme Court affirmed a juvenile court order terminating D.A.'s parental rights to W.A. The court held that Utah law and the Fourteenth Amendment permitted the juvenile court to exercise jurisdiction over the nonresident parent under the status exception. It also addressed the admissibility of evidence relating to D.A.'s nolo contendere conviction and a prior juvenile court adjudication.

CASE DETAILS

COURT	Supreme Court of Utah
WRITING FOR THE COURT	Durrant, Associate Chief Justice; Howe, Justice; Russon, Justice; Wilkins, Justice; Durham, Chief Justice
JURISDICTION	Utah
DECIDED	December 20, 2002
DOCKET	No. 20010081
DISPOSITION	affirmed
PROCEDURAL POSTURE	D.A. appealed a juvenile court order terminating her parental rights. The Utah Court of Appeals certified the appeal to the Utah Supreme Court.
STANDARD OF REVIEW	Termination findings and conclusions are disturbed only if the evidence clearly preponderates against them or the juvenile court abused its discretion. Personal jurisdiction under Utah law and the Fourteenth Amendment is reviewed for correctness, with underlying factual findings reviewed for clear error. Evidentiary admissibility is generally reviewed for correctness, incorporating clear-error review of subsidiary factual determinations; some admissibility issues are reviewed for abuse of discretion. Statutory interpretation begins with the plain meaning of the statute.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	D.A. v. State of Utah

TOPICS

termination of parental rights

family law procedure

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evidence

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PRACTICE AREAS

family law

juvenile law

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QUESTIONS PRESENTED

1. Whether Utah law and the Fourteenth Amendment permitted the juvenile court to exercise personal jurisdiction over a nonresident parent in a parental-rights termination proceeding.
2. Whether Utah Rule of Evidence 410(2) barred admission of a conviction resulting from a nolo contendere plea when offered to show the fact and duration of incarceration rather than the underlying criminal conduct.
3. Whether Utah Rule of Evidence 803(22) barred admission of the conviction and whether the conviction was admissible under Rule 803(8).
4. Whether admitting or taking judicial notice of the February 25, 1998, adjudication order violated D.A.'s confrontation or due-process rights.
5. Whether the juvenile court properly denied D.A.'s motion to amend the termination order where she failed to marshal the evidence challenging the abandonment finding.

HOLDINGS

1. Utah Code section 78-3a-110(13) confers personal jurisdiction over a nonresident parent in a parental-termination proceeding when the child is present in Utah when the proceeding begins and the parent receives the required notice.
2. The exercise of personal jurisdiction over a nonresident parent in this parental-rights termination proceeding complied with the Fourteenth Amendment because termination proceedings adjudicate the legal status of the child-parent relationship and the proceeding provided adequate notice and procedural safeguards.
3. Utah Rule of Evidence 410(2) does not bar admission of a conviction resulting from a nolo contendere plea when the conviction is offered to show the fact and length of incarceration rather than to prove that the defendant committed the underlying offense.
4. Utah Rule of Evidence 803(22) does not affirmatively bar admission of a conviction resulting from a nolo contendere plea; although the conviction does not qualify for the Rule 803(22) hearsay exception, it may be admissible under another exception.
5. Any error in admitting or taking judicial notice of the February 25, 1998, adjudication order was nonprejudicial because D.A. stipulated to the only fact for which the State offered the order: that the State had custody of W.A.
6. The juvenile court properly denied D.A.'s motion to amend because D.A. failed to marshal the evidence challenging the abandonment finding, and abandonment alone independently supported termination of her parental rights.

KEY QUOTATIONS

“The proper test to be applied in determining whether personal jurisdiction exists over a nonresident defendant involves two considerations.” (¶ 14)

“We conclude that it does for three reasons. First, parental termination proceedings clearly involve the determination of a child's status vis-a-vis its parents.” (¶ 22)

“Evidence of a final judgment that does not fall within this exception to the hearsay rule could still be admissible ... because it falls within some other hearsay exception.” (¶ 38)

FACTUAL BACKGROUND

W.A. was the biological child of D.A. and E.A. After both parents were charged in Oklahoma with offenses involving sexual abuse of children and received lengthy prison sentences following nolo contendere pleas, W.A. lived with his sister, D.D., who later moved with him to Utah. When D.D. could no longer care for him, Utah's Division of Child and Family Services obtained temporary custody and guardianship after W.A. was adjudicated dependent. The State and W.A.'s guardian ad litem then sought termination of both parents' rights; D.A. received notice and participated through counsel.

PROCEDURAL HISTORY

The juvenile court adjudicated W.A. a dependent child, awarded the State temporary custody and guardianship, and later terminated the parental rights of D.A. and E.A. based on unfitness and abandonment. D.A. challenged personal jurisdiction, admission of her nolo contendere conviction, admission of a prior adjudication order, and denial of her motion to amend the termination order. The Utah Court of Appeals certified D.A.'s appeal to the Utah Supreme Court, which affirmed.

DISPOSITION

affirmed

CASES CITED

- In re S.R., 735 P.2d 53, 56 (Utah 1987)
- State Dep't of Soc. Serv. v. Vijil, 784 P.2d 1130, 1132 (Utah 1989)
- Starways, Inc. v. Curry, 1999 UT 50, ¶ 6, 980 P.2d 204
- Phone Directories Co. v. Henderson, 2000 UT 64, ¶ 12, 8 P.3d 256
- SII MegaDiamond, Inc. v. Am. Superabrasives Corp., 969 P.2d 430, 433 (Utah 1998)
- Arguello v. Indus. Woodworking Mach. Co., 838 P.2d 1120, 1122 (Utah 1992)
- Synergetics v. Marathon Ranching Co., 701 P.2d 1106, 1110 (Utah 1985)
- Kamdar & Co. v. Laray Co., 815 P.2d 245, 248 (Utah Ct. App. 1991)
- Cal Wadsworth Constr. v. City of St. George, 898 P.2d 1372, 1378 (Utah 1995)
- State v. Martin, 2002 UT 34, ¶ 29, 44 P.3d 805
- Young v. Salt Lake City Sch. Dist., 2002 UT 64, ¶ 10, 52 P.3d 1230

- Boud v. SDNCO, Inc., 2002 UT 83, ¶ 10, 54 P.3d 1131
- International Shoe Co. v. State of Washington, International Shoe Co. v. Washington, 326 U.S. 310, 316 (1945)
- Pennoyer v. Neff, 95 U.S. 714, 734-35 (1877)
- Shaffer v. Heitner, 433 U.S. 186, 201, 208 n.30 (1977)
- In re Interest of M.L.K., 13 Kan. App. 2d 251, 768 P.2d 316, 319-20 (1989)
- In re M.S.B., 611 S.W.2d 704, 706 (Tex. Civ. App. 1980)
- May v. Anderson, 345 U.S. 528, 528-29, 533-36 (1953)
- Olsen v. Correiro, 189 F.3d 52, 55-63 (1st Cir. 1999)
- Price v. Turner, 28 Utah 2d 328, 330-31, 502 P.2d 121, 123 (1972)
- State v. Triptow, 770 P.2d 146, 146-47 (Utah 1989)
- State v. Evans, 2001 UT 22, ¶ 20, 20 P.3d 888
- State v. Widdison, 2001 UT 60, ¶ 60, 28 P.3d 1278
- Harding v. Bell, 2002 UT 108, ¶ 19, 57 P.3d 1093
- Tanner v. Carter, 2001 UT 18, ¶ 19, 20 P.3d 332
- Utah Med. Prods., Inc. v. Searcy, 958 P.2d 228, 233 (Utah 1998)
- Laney v. Fairview City, 2002 UT 79, ¶ 7, 57 P.3d 1007