

SUPREME COURT OF THE STATE OF ALASKA

Debra P. v. Laurence S.

309 P.3d 1258 (Alaska 2013) · No. S-14568 · Decided September 27, 2013

SUMMARY

The Alaska Supreme Court held that the superior court violated Debra P.'s due process rights by entering a final child custody and visitation order at a hearing she reasonably believed would address only interim custody issues. The court reversed the judgment and remanded for a new custody trial.

CASE DETAILS

COURT	Supreme Court of the State of Alaska
WRITING FOR THE COURT	Bolger, Justice; Fabe, Chief Justice; Winfree, Justice; Stowers, Justice; Maassen, Justice
JURISDICTION	Alaska
DECIDED	September 27, 2013
DOCKET	S-14568
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Debra P. appealed a final child-custody and visitation judgment entered after a hearing she reasonably believed concerned only interim custody and visitation issues.
STANDARD OF REVIEW	The adequacy of notice and hearing in child-custody proceedings presents a constitutional question of law reviewed de novo under the court's independent judgment. The court reviewed the alleged abuse of discretion concerning appointment of a custody investigator or guardian ad litem and discontinuation of random urinalysis testing.
PRECEDENTIAL VALUE	Published Alaska Supreme Court opinion; precedential.
PARTIES	Debra P. v. Laurence S.

TOPICS

child custody procedural due process family law procedure appellate procedure standard of review

PRACTICE AREAS

family law constitutional law civil procedure appellate procedure

QUESTIONS PRESENTED

1. Whether entering a final custody and visitation order at a hearing that the mother reasonably believed would address only interim custody and visitation violated her right to procedural due process.
2. Whether the superior court abused its discretion by denying or not granting the requested appointment of a custody investigator or guardian ad litem and by discontinuing a pretrial requirement for random urinalysis testing.

HOLDINGS

1. The superior court violated Debra's right to due process by entering a final custody and visitation order after a hearing that she reasonably believed would resolve only interim custody and visitation issues.
2. The court declined to find an abuse of discretion on these issues based on the limited briefing and record, but did not need to resolve them because the case was being remanded for a new custody trial.

KEY QUOTATIONS

“Procedural due process under the Alaska Constitution requires notice and opportunity for hearing appropriate to the nature of the case.” (at -4-)

“It is essential to contested custody proceedings that the parties be afforded a hearing which grants them the opportunity to present the quantum of evidence needed to make an informed and principled determination.” (at -4-)

FACTUAL BACKGROUND

Debra P. and Laurence S. are the parents of Dennis S., who lived with both parties until their relationship ended in 2008. After periods in which Dennis lived with Debra in California and with Laurence in Alaska, Debra resumed physical custody in 2010, prompting Laurence to file a custody action. The superior court initially entered an interim custody order granting Laurence primary physical custody, but later entered a final custody and visitation order at a hearing Debra reasonably believed was limited to interim issues and for which she was not prepared to present a full case.

PROCEDURAL HISTORY

Laurence S. filed a custody action and sought interim custody. The superior court awarded him primary physical custody on an interim basis, later scheduled a trial call and a subsequent evidentiary hearing, and then entered a final custody and visitation order after the parties presented evidence at the subsequent hearing. Debra moved for reconsideration, asserting that she had not been notified that the hearing had been converted into a final trial; the superior court denied the motion, and she appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The superior court must conduct a new custody trial.

CASES CITED

- Lashbrook v. Lashbrook, 957 P.2d 326, 328 (Alaska 1998)
- Wright v. Black, 856 P.2d 477, 479-80 (Alaska 1993)
- Cushing v. Painter, 666 P.2d 1044, 1046 (Alaska 1983)
- Milne v. Anderson, 576 P.2d 109, 112 (Alaska 1978)
- B.E.B. v. R.L.B., 979 P.2d 514 (Alaska 1999)
- A.H. v. W.P., 896 P.2d 240, 243-44 (Alaska 1995)