

SUPREME COURT OF TEXAS

Nanci Adams Holley v. David E. Adams

544 S.W.2d 367 (Tex. 1976) · No. B-5880 · Decided December 1, 1976

SUMMARY

The Supreme Court of Texas reviewed the termination of Nanci Adams Holley's parental relationship with her son under Section 15.02 of the Texas Family Code. The court held that although the evidence supported a finding that Holley failed to support the child, that failure was excused because she had voluntarily surrendered custody and was never ordered to pay support. The court further held that there was no evidence that termination was in the child's best interest, reversed the lower courts, and rendered judgment denying termination.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                         |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Texas                                                                                                                                                                                                                                                                                                                  |
| WRITING FOR THE COURT | Sam D. Johnson                                                                                                                                                                                                                                                                                                                          |
| JURISDICTION          | Texas                                                                                                                                                                                                                                                                                                                                   |
| DECIDED               | December 1, 1976                                                                                                                                                                                                                                                                                                                        |
| DOCKET                | B-5880                                                                                                                                                                                                                                                                                                                                  |
| DISPOSITION           | reversed                                                                                                                                                                                                                                                                                                                                |
| PROCEDURAL POSTURE    | Petition for review of a court of civil appeals judgment affirming a trial-court order terminating the parent-child relationship.                                                                                                                                                                                                       |
| STANDARD OF REVIEW    | In reviewing the finding that conduct endangered the child's emotional well-being, the court considered only evidence and inferences supporting the finding and disregarded contrary evidence. Because termination implicates constitutional parental and child interests, the court stated that the case must be strictly scrutinized. |
| PRECEDENTIAL VALUE    | Published Texas Supreme Court opinion; precedential.                                                                                                                                                                                                                                                                                    |
| PARTIES               | Nanci Adams Holley v. David E. Adams                                                                                                                                                                                                                                                                                                    |

TOPICS

- termination of parental rights
- parental rights
- family law procedure
- family law
- statutory interpretation

PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether termination of the parent-child relationship may be based solely on the trial court's determination that termination is in the child's best interest.
2. Whether evidence supported termination under Section 15.02(1)(D) based on conduct endangering the child's emotional well-being.
3. Whether Nanci Holley's failure to support the child was excused because she voluntarily surrendered custody, was never ordered to pay support, and the child was adequately supported by his father.
4. Whether the evidence established that termination of the parent-child relationship was in the child's best interest.

## HOLDINGS

1. Termination under Section 15.02 requires proof of at least one act or omission listed in Section 15.02(1) and proof that termination is in the child's best interest under Section 15.02(2); best-interest evidence alone cannot support termination.
2. There was no evidence that Nanci's limited contacts, visits, mental-health hospitalization, travel, divorce, bankruptcy, or other cited conduct endangered the child's emotional well-being.
3. Any excuse for a parent's act or omission under Section 15.02(1)(E) may be considered only as a factor in determining the child's best interest; on the facts of this case, Nanci's failure to support was excused.
4. The evidence did not establish that termination of the parent-child relationship was in the child's best interest.

## KEY QUOTATIONS

*“Under Section 15.02 termination of a parent-child relationship may not be based solely upon what the trial court determines to be the best interest of the child.”* (544 S.W.2d at 370)

*“Therefore, Nanci Holley's duty to support her child was excused and the fact that the failure to support is excused is one of the factors to be considered in ascertaining the best interest of the child.”* (544 S.W.2d at 372)

*“A review of the factors presented in the record reveals only evidence that indicates that termination is not in the best interest of the child.”* (544 S.W.2d at 373)

## FACTUAL BACKGROUND

Nanci Holley voluntarily delivered her son to his father during the divorce proceedings, and the divorce decree awarded the father custody without requiring Nanci to pay child support. The child remained in the father's custody and was well cared for by his father and stepmother. Nanci maintained contact through letters, telephone calls, visits, gifts, insurance coverage, and approximately \$100 in financial contributions, while living in Washington and working at the University of Washington. The father sought termination principally because he wanted his wife to adopt the child and was concerned about the child's care if he died.

## PROCEDURAL HISTORY

David Adams sought termination of Nanci Holley's parental relationship with their son under Section 15.02 of the Texas Family Code. The trial court granted termination based on alleged failure to support, conduct endangering the child's emotional well-being, and the child's best interest. The court of civil appeals affirmed, relying on the failure-to-support ground. The Supreme Court of Texas reversed and rendered judgment denying termination.

## DISPOSITION

reversed

## REMAND INSTRUCTIONS

None; the Supreme Court rendered judgment denying termination of the parent-child relationship.

## CASES CITED

- *Herrera v. Herrera*, 409 S.W.2d 395 (Tex. 1966)
- *Legate v. Legate*, 87 Tex. 248, 28 S.W. 281 (1894)
- *Wiley v. Spratlan*, 543 S.W.2d 349, 351 (Tex. 1976)
- *Garza v. Alviar*, 395 S.W.2d 821 (Tex. 1965)
- *Heard v. Bauman*, 443 S.W.2d 715 (Tex. 1969)
- *Mumma v. Aguirre*, 364 S.W.2d 220, 222 (Tex. 1963)
- *Porter v. Porter*, 371 S.W.2d 607 (Tex. Civ. App.—Eastland 1963, writ ref'd n.r.e.)

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