

SUPREME COURT OF COLORADO

In re People

88 P.3d 599 (Colo. 2004) · Decided April 12, 2004

SUMMARY

The Colorado Supreme Court reviews an original proceeding challenging dismissal of prospective adoptive parents’ petition for allocation of parental responsibilities after a Missouri adoption failed. The court concludes that the interstate nature of the dispute and the Missouri adoption proceedings do not deprive Colorado courts of jurisdiction to conduct a best-interests-of-the-child inquiry. It makes the rule absolute and remands for further proceedings.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Kourlis
JURISDICTION	Colorado
DECIDED	April 12, 2004
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Original proceeding under C.A.R. 21 challenging the Jefferson County District Court's dismissal of a petition for allocation of parental responsibilities and its denial of post-judgment relief.
STANDARD OF REVIEW	The court reviewed the district court's jurisdictional dismissal in an original proceeding under C.A.R. 21; the jurisdictional issue was treated as a question of law.
PRECEDENTIAL VALUE	Published Colorado Supreme Court opinion; precedential
PARTIES	G.A.L., V.K.L. v. People

TOPICS

- interstate disputes
- child custody
- family law procedure
- writ of certiorari
- appellate procedure

PRACTICE AREAS

- family law
- child custody
- civil procedure
- appellate procedure
- federalism

QUESTIONS PRESENTED

1. Whether Colorado had jurisdiction to consider the petitioners' request for allocation of parental responsibilities after the Missouri adoption failed and the Missouri court ordered the child's return without conducting a best-interests hearing.
2. Whether the UCCJA, UCCJEA, PKPA, or ICPC required Colorado to decline jurisdiction or give preclusive effect to the Missouri custody-related order.
3. Whether prospective adoptive parents who have physical custody of a child following a failed adoption may seek an independent custody determination under Colorado law.

HOLDINGS

1. Colorado courts may exercise jurisdiction to determine custody of a child based on the child's best interests after an interstate adoption fails, even though the child was born in another state and the other state's court ordered the child's return without conducting a best-interests custody determination.
2. The UCCJA would permit Colorado to exercise jurisdiction in this dispute, and the UCCJEA does not require a different result because it excludes adoption proceedings and leaves a jurisdictional gap that the Uniform Adoption Act was intended to fill.
3. The PKPA did not bar Colorado from exercising jurisdiction because Missouri declined, within the meaning of the Act, to exercise continuing jurisdiction to determine the child's best interests.
4. The ICPC did not require Colorado to return the child or decline jurisdiction because the Missouri sending agency did not request the child's return and instead stated that the child's best interests favored remaining in Colorado.

KEY QUOTATIONS

"We conclude that there is nothing about the interstate nature of this dispute that would demand that Colorado decline to treat this child as we would treat a child born within our borders." (600)

"Rather, A.J.C. is a party to this proceeding and, as such, has the right to have his best interests heard and determined by the court, independent of the legal rights of either his biological mother or the Petitioners." (600-601)

"Consequently, we determine that because Missouri failed to conduct a best interests analysis in issuing its custody decree, it declined jurisdiction to modify that order under section 1738A(f)." (612)

FACTUAL BACKGROUND

A.J.C. was born in Missouri on April 18, 2003. His mother initially consented to temporary custody and adoption placement with the Colorado petitioners, who obtained physical custody two days after his birth and brought him to Colorado, where he remained for more than six months. The mother later withdrew her consent, and the Missouri court dismissed the adoption proceeding and ordered the child's return without determining custody according to the child's best interests. The petitioners sought an independent Colorado custody determination based on the child's best interests.

PROCEDURAL HISTORY

The petitioners, prospective adoptive parents residing in Colorado, obtained temporary custody of a child born in Missouri and brought him to Colorado. After the biological mother withdrew her adoption consent, a Missouri court dismissed the adoption petition and ordered that physical custody be restored to the mother, without conducting a best-interests custody determination. The petitioners then sought allocation of parental responsibilities in Colorado. The Jefferson County District Court dismissed the petition for lack of jurisdiction and issued a writ of habeas corpus ordering return of the child. The Colorado Supreme Court issued a rule to show cause, made it absolute, reversed, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court was directed to conduct further proceedings consistent with the opinion, including an inquiry into the child's best interests and the competing custody claims.

CASES CITED

- In re Custody of C.C.R.S., 892 P.2d 246, 253-58 (Colo. 1995)
- In re Baby Girl, 850 S.W.2d 64 (Mo. 1993)
- Shepler v. Sayres, 372 S.W.2d 87, 90-91 (Mo. 1963)
- In re K.K.M., 647 S.W.2d 886, 892 (Mo. Ct. App. 1983)
- In re Neusche, 398 S.W.2d 453, 457 (Mo. Ct. App. 1966)
- L.G. v. People, 890 P.2d 647, 655-58 (Colo. 1995)
- In re Custody of K.R., 897 P.2d 896, 899-900 (Colo. App. 1995)
- In re T.C.M., 651 S.W.2d 525, 528 (Mo. Ct. App. 1983)
- Barden v. Blau, 712 P.2d 481, 484 (Colo. 1986)
- E.E.B. v. D.A., 89 N.J. 595, 446 A.2d 871, 877-80 (1982), cert. denied, 459 U.S. 1210 (1983)
- Lemley v. Barr, 176 W. Va. 378, 343 S.E.2d 101, 105 (1986)
- In re Baby Girl L., 51 P.3d 544 (Okla. 2002)
- In re Baby Girl Clausen, 442 Mich. 648, 502 N.W.2d 649, 660-61 (1993)
- Department of Social Services v. District Court, 742 P.2d 339, 341-43 (Colo. 1987)
- Thompson v. Thompson, 484 U.S. 174, 175-81 (1988)
- In re Marriage of Zierenberg, 11 Cal. App. 4th 1436, 16 Cal. Rptr. 2d 238, 241 (1992)
- In re Adoption of Asente, 90 Ohio St. 3d 91, 734 N.E.2d 1224, 1231 (2000)
- Johnson v. Capps, 415 N.E.2d 108, 110 (Ind. Ct. App. 1981)
- DeBoer v. DeBoer, 509 U.S. 938 (1993)