

SUPREME COURT OF NEVADA

Jennifer L. v. Eighth Judicial District Court

2015 NV 30 (2015) · No. 63176 · Decided June 4, 2015

SUMMARY

The Nevada Supreme Court denied Jennifer L.'s petition for a writ of mandamus seeking dismissal of a juvenile abuse and neglect petition. The court held that under NRS 159.079(7), a parent retains a statutory duty to provide care, support, and maintenance for a child even when an NRS Chapter 159 guardianship is in place. The court also distinguished *Chapman v. Chapman* because the child was not receiving proper care when the neglect petition was filed.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Justice Douglas; Justice Parraguirre; Justice Cherry
JURISDICTION	Nevada
DECIDED	June 4, 2015
DOCKET	63176
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Original petition for a writ of mandamus seeking to compel the juvenile division of the district court to dismiss an abuse and neglect petition and finding of neglect against petitioner.
STANDARD OF REVIEW	The court reviewed the statutory-interpretation question de novo. Mandamus relief is discretionary and may issue to compel performance of an act required by law or to control an arbitrary or capricious exercise of discretion when no plain, speedy, and adequate legal remedy exists or urgent circumstances or important legal issues warrant review.
PRECEDENTIAL VALUE	Published Nevada Supreme Court opinion; precedential
PARTIES	Jennifer L. v. Eighth Judicial District Court of the State of Nevada, in and for the County of Clark, Frank P. Sullivan, State of Nevada, R.L.

TOPICS

guardianships

statutory interpretation

appellate jurisdiction

writ of certiorari

family law

PRACTICE AREAS

Family law

Juvenile law

Guardianship law

Appellate procedure

QUESTIONS PRESENTED

1. Whether a parent may be held legally responsible for neglect of a child while an NRS Chapter 159 legal guardianship is in place.
2. Whether *Chapman v. Chapman* precluded a finding of parental neglect because the child had previously been left with a purported caregiver.
3. Whether mandamus relief was appropriate when the juvenile-court abuse and neglect determination was not substantively appealable.

HOLDINGS

1. An NRS Chapter 159 guardianship does not relieve a parent of the statutory duty to provide for the care, support, and maintenance of the child. A parent may therefore be held legally responsible for neglect even while the guardianship remains in place.
2. *Chapman v. Chapman* did not bar the neglect finding because the circumstances had changed: at the time of the petition, R.L. was not receiving proper care, Brenda was no longer willing or able to care for her, and Jennifer was unable to provide care.
3. Mandamus relief was not warranted, and the petition was denied.

KEY QUOTATIONS

“We conclude that even while a child is under an NRS Chapter 159 guardianship, the child's parents have a statutory duty to continue to care for the child, and parental responsibility for neglect may coincide with the guardianship.” (at 1)

“This section does not relieve a parent or other person of any duty required by law to provide for the care, support and maintenance of any dependent.” (at 5)

“Applying the plain and ordinary meaning of NRS 159.079(7) here leads us to conclude that, as R.L.'s natural mother, Jennifer continues to be responsible for R.L.'s care, irrespective of Marjorie's guardianship.” (at 5)

FACTUAL BACKGROUND

R.L. was Jennifer L.'s daughter and was placed under an NRS Chapter 159 guardianship after her father's death. The guardianship arrangements changed, and R.L. was eventually left with Brenda D., whose care was later questioned after R.L. reported alleged abuse and neglect; Brenda ultimately no longer wanted R.L. in her home. Jennifer was civilly committed in Wisconsin and had schizoaffective disorder, severe memory impairment, alcohol dependence, and court-ordered treatment, and the juvenile court found that her condition prevented her from providing care for R.L.

PROCEDURAL HISTORY

The State filed an abuse and neglect petition under NRS Chapter 432B concerning R.L., identifying Jennifer L. as the child's mother and alleging that her mental-health conditions impaired her ability to provide care. A hearing master sustained the allegations, and the juvenile division adopted that recommendation, finding Jennifer responsible for neglect. Because the juvenile-court determination was not substantively appealable and the petition raised an important legal question, the Nevada Supreme Court exercised its discretion to consider the mandamus petition.

DISPOSITION

writ_denied

CASES CITED

- Cheung v. Eighth Judicial Dist. Court, 121 Nev. 867, 868-69, 124 P.3d 550, 552 (2005)
- In re A.B., 128 Nev., Adv. Op. 70, 291 P.3d 122, 126 (2012)
- Int'l Game Tech., Inc. v. Second Judicial Dist. Court, 124 Nev. 193, 198, 179 P.3d 556, 559 (2008)
- Cromer v. Wilson, 126 Nev. 106, 109, 225 P.3d 788, 790 (2010)
- Chapman v. Chapman, 96 Nev. 290, 294, 607 P.2d 1141, 1144 (1980)
- In re Adoption of R.R.R., 96 Cal. Rptr. 308 (Ct. App. 1971)