

SUPREME COURT OF KANSAS

In re Adoption of B.G.J.

281 Kan. 552 (2006) · No. No. 91,997 · Decided April 28, 2006

SUMMARY

The Kansas Supreme Court reviewed an adoption proceeding involving an Indian child under the Indian Child Welfare Act (ICWA). The court addressed the standard of appellate review for a trial court's determination of good cause to deviate from ICWA's adoptive placement preferences and concluded that substantial abuse of discretion review applies. The court also evaluated whether the trial court properly applied the ICWA factors in approving adoption by non-Indian parents.

CASE DETAILS

COURT	Supreme Court of Kansas
WRITING FOR THE COURT	Allegretti, J.
JURISDICTION	Kansas
DECIDED	April 28, 2006
DOCKET	No. 91,997
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Prairie Band Potawatomi Nation intervened in an adoption proceeding involving an Indian child and objected to placement with non-Indian adoptive parents. The district court found good cause to deviate from the Indian Child Welfare Act's adoptive-placement preferences and granted the adoption. The Kansas Court of Appeals affirmed, and the Supreme Court of Kansas granted the Tribe's petition for review.
STANDARD OF REVIEW	Substantial abuse of discretion. The district court's factual findings are reviewed for clear error, and its determination is upheld if it properly applied the ICWA factors and acted within the applicable legal standards.
PRECEDENTIAL VALUE	Published, precedential Kansas Supreme Court opinion
PARTIES	Prairie Band Potawatomi Nation v. R.B.F. and L.M.F., adoptive parents

TOPICS

indian child welfare act

adoption

standard of review

appellate procedure

statutory interpretation

PRACTICE AREAS

family law

adoption

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QUESTIONS PRESENTED

1. What standard of appellate review applies to a district court's determination that good cause exists to deviate from the ICWA adoptive-placement preferences?
2. Did the district court err in determining that good cause existed to deviate from the ICWA placement preferences?
3. Was the existing Indian family doctrine at issue in the case?

HOLDINGS

1. A district court's determination that good cause exists to deviate from the ICWA adoptive-placement preferences is reviewed for substantial abuse of discretion.
2. The district court did not abuse its discretion in finding good cause to place B.G.J. with the non-Indian adoptive parents rather than following the ICWA placement preferences.
3. The Supreme Court declined to address or reject the existing Indian family doctrine because the doctrine was not used below to make the ICWA inapplicable and its resolution would not affect the case.

KEY QUOTATIONS

"We conclude that our standard of review of the good cause finding to deviate from the Indian Child Welfare Act's placement preferences is substantial abuse of discretion." (281 Kan. at 564)

"We hold the district court did not abuse its discretion in finding that good cause existed to deviate from ICWA's placement preferences." (281 Kan. at 566)

"It is the duty of the courts to decide actual controversies by a judgment which can be carried into effect, and not to give opinions upon moot questions or abstract propositions, or to declare principles which cannot affect the matters in issue before the court." (281 Kan. at 567)

FACTUAL BACKGROUND

B.G.J. was an Indian child under the ICWA because she was eligible for enrollment in the Prairie Band Potawatomi Nation and was the biological child of an enrolled tribal member. Her mother knowingly relinquished custody after learning of the ICWA placement preferences and strongly preferred placement with the non-Indian adoptive parents, with whom the child had bonded. The Tribe proposed several extended-family placements, but the district court found them unsuitable because, among other reasons, the proposed relatives lacked adequate social assessments and did not live on the reservation or practice the Tribe's cultural or religious traditions.

PROCEDURAL HISTORY

The district court determined that the Indian Child Welfare Act applied but found, under a clear-and-convincing-evidence standard, that good cause existed to depart from the statutory placement preferences. It granted the petition by R.B.F. and L.M.F. to adopt B.G.J. The Court of Appeals affirmed, applying an abuse-of-discretion standard. The Supreme Court of Kansas affirmed both lower-court judgments.

DISPOSITION

affirmed

CASES CITED

- In re Adoption of B.G.J., 33 Kan. App. 2d 894, 111 P.3d 651 (2005)
- Matter of Adoption of F.H., 851 P.2d 1361, 1363 (Alaska 1993)
- Matter of Appeal in Maricopa County, 136 Ariz. 528, 534, 667 P.2d 228 (Ct. App. 1983)
- Adoption of M, 66 Wash. App. 475, 482-83, 832 P.2d 518 (1992)
- Fresno County Department of Children & Family Services v. Superior Court, 122 Cal. App. 4th 626, 645-46, 19 Cal. Rptr. 3d 155 (2004)
- Dougan v. Rossville Drainage District, 270 Kan. 468, 478, 15 P.3d 338 (2000)
- Matter of Baby Boy Doe, 127 Idaho 452, 461-62, 902 P.2d 477 (1995)
- State v. Lumbrera, 252 Kan. 54, Syl. ¶ 5, 845 P.2d 609 (1993)
- Varney Business Services, Inc. v. Pottroff, 275 Kan. 20, 44, 59 P.3d 1003 (2002)
- Saucedo v. Winger, 252 Kan. 718, 729-32, 850 P.2d 908 (1993)
- Dragon v. Vanguard Industries, Inc., 277 Kan. 776, 779-80, 89 P.3d 908 (2004)
- Bigs v. City of Wichita, 271 Kan. 455, 477, 23 P.3d 855 (2001)
- In re Marriage of Phillips, 274 Kan. 1049, 1050, 58 P.3d 680 (2002)
- In re Adoption of Baby Boy L., 231 Kan. 199, 206, 643 P.2d 168 (1982)
- In re J.J.G., 32 Kan. App. 2d 448, 452-53, 83 P.3d 1264 (2004)
- Pruter v. Larned State Hospital, 28 Kan. App. 2d 302, 312, 16 P.3d 975 (2000), aff'd, 271 Kan. 865, 26 P.3d 666 (2001)
- Miller v. Sloan, Listrom, Eisenbarth & Glassman, 267 Kan. 245, 262, 978 P.2d 922 (1999)