

SUPREME COURT OF RHODE ISLAND

In re Douglas F.

840 A.2d 1087 (R.I. 2003) · No. No. 2002-589-Appeal · Decided December 12, 2003

SUMMARY

The Rhode Island Supreme Court affirmed a Family Court judgment terminating Douglas Fagundes Jr.'s parental rights to his son based on substance abuse, inadequate housing, and failure to complete reunification case plans. The court held that termination was in the child's best interests because the child needed a permanent and stable home, and the parent's love and bond with the child were insufficient to overcome that need. The court also declined to review the father's claim of judicial bias because it was not preserved at trial.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Per Curiam; Williams, C.J.; Flanders, J.; Goldberg, J.; Flaherty, J.; Suttell, J.
JURISDICTION	Rhode Island
DECIDED	December 12, 2003
DOCKET	No. 2002-589-Appeal
DISPOSITION	affirmed
PROCEDURAL POSTURE	The respondent father appealed a Family Court judgment terminating his parental rights. The Supreme Court summarily decided the appeal after directing the parties to show cause why the issues should not be decided summarily.
STANDARD OF REVIEW	The Supreme Court reviews the record to determine whether legally competent evidence supports the Family Court's findings in a termination-of-parental-rights proceeding. Those findings receive great weight and will not be disturbed unless the trial justice overlooked or misconceived material evidence or was otherwise clearly wrong.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Douglas Fagundes, Jr.

TOPICS

termination of parental rights

parental rights

family law procedure

standard of review

preservation of error

PRACTICE AREAS

family law

termination of parental rights

appellate procedure

QUESTIONS PRESENTED

1. Whether termination of the father's parental rights was in the child's best interests despite the father's asserted bond with the child and claimed efforts at rehabilitation.
2. Whether the father's claim that the trial justice was biased could be reviewed when the issue was not raised at trial and no recusal request was made.

HOLDINGS

1. The bias claim was not preserved because the father failed to raise it in the Family Court or request that the trial justice recuse himself; therefore, the issue was not properly before the Supreme Court.
2. Termination was in the child's best interests because the child's right to a safe, nurturing, permanent, and stable home was not overcome by the father's love, bond with the child, or attempts at rehabilitation, particularly where he lacked suitable housing, had not completed substance-abuse treatment, and had not assumed full parental responsibility.
3. Findings supporting termination are entitled to great weight and will not be disturbed unless the trial justice overlooked or misconceived material evidence or was otherwise clearly wrong.

KEY QUOTATIONS

"[A] parent's genuine love for [his] child, or an existence of a bond between parent and child, is not sufficient to overcome the child's fundamental right to a safe and nurturing environment." (1089)

"Children are entitled to permanency and should not be made to wait indefinitely for their parents to attain sobriety and gainful employment to provide them with a safe and stable environment." (1089)

FACTUAL BACKGROUND

The child had been primarily cared for by the father's stepmother for most of his life. The father had a history of substance abuse, incarceration, unstable housing, and failure to complete reunification case plans requiring suitable housing and sobriety. At the time of trial, he remained unable to provide stable housing or complete substance-abuse treatment, and he had not assumed full responsibility for the child's emotional, financial, or physical needs.

PROCEDURAL HISTORY

The Family Court found by clear and convincing evidence that the father was unfit and that termination of his parental rights was in the child's best interests. On appeal, the father challenged the best-interests determination

and asserted that the trial justice was biased. The Supreme Court held that the bias issue was not preserved because it was not raised below and affirmed the termination judgment.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The papers in the case were remanded to the Family Court.

CASES CITED

- In re Brianna D., 798 A.2d 413, 414-15 (R.I. 2002)
- In re Kristen B., 558 A.2d 200, 204-05 (R.I. 1989)
- In re Christina V., 749 A.2d 1105, 1111 (R.I. 2000)
- In re Rene B., 544 A.2d 137, 139 (R.I. 1988)
- In re Stephanie, 456 A.2d 268, 271 (R.I. 1983)
- In re Eric K., 756 A.2d 769, 772-73 (R.I. 2000)