

DISTRICT OF COLUMBIA COURT OF APPEALS

In re G.K.; District of Columbia, Appellant

993 A.2d 558 (D.C. 2010) · No. No. 09-FS-510 · Decided April 22, 2010

SUMMARY

The District of Columbia Court of Appeals held that the Child and Family Services Agency lacked statutory authority to consent to psychotropic medication for a neglected child in its legal custody. The court concluded that authority to consent to major psychiatric treatment remained with the child's residual parental rights or, when necessary, the Family Court. It reversed the Family Court's order directing CFSA to make medication decisions for the child.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Blackburne-Rigsby, Associate Judge; Glickman, Associate Judge; Fisher, Associate Judge
JURISDICTION	District of Columbia
DECIDED	April 22, 2010
DOCKET	No. 09-FS-510
DISPOSITION	reversed
PROCEDURAL POSTURE	The District of Columbia appealed a Family Court order directing the Child and Family Services Agency (CFSA) to make decisions concerning authorization of inpatient psychotropic medication for a neglected child in CFSA's legal custody.
STANDARD OF REVIEW	Statutory construction is reviewed de novo. The Family Court's exercise of discretion concerning a child's best interests is generally reviewed for abuse of discretion, but the discretion must be based on correct legal standards.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	District of Columbia v. G.K., M.K.L., L.L.

TOPICS

- guardianship procedure
- statutory interpretation
- family law procedure
- guardianships
- health law

PRACTICE AREAS

family law

child welfare

health law

guardianship

QUESTIONS PRESENTED

1. Whether CFSA has statutory authority to consent to non-emergency psychotropic medication for a neglected child in its legal custody.
2. Whether the Family Court may delegate to CFSA the ultimate responsibility for deciding whether a neglected child's psychotropic medication is in the child's best interests.
3. Whether the Family Court may override a parent's residual parental right to make medical decisions only after making the required findings by clear and convincing evidence.

HOLDINGS

1. CFSA lacks statutory authority to consent to psychotropic medication for a child in its legal custody because legal custody confers responsibility for ordinary medical care, while authority to consent to major psychiatric treatment belongs to the guardian of the person or remains among the parent's residual parental rights.
2. The Family Court may not delegate to CFSA its ultimate *parens patriae* responsibility to decide whether overriding a parent's refusal of psychotropic medication is in the child's best interests.
3. The Family Court may override a parent's residual parental right concerning a neglected child's psychotropic medication when necessary to protect the child, but it must find by clear and convincing evidence that overriding the parent's decision is in the child's best interests; the court failed to make those findings here.

KEY QUOTATIONS

“we conclude that decisions regarding a neglected child's psychotropic medication are presumptively within the ambit of residual parental rights—subject to the Family Court's responsibility as parens patriae to intervene, if necessary, to protect a child's best interest.” (566)

“Further, the Family Court cannot exercise its discretion as parens patriae to intervene and overrule a parent's prerogative unless it finds by clear and convincing evidence that doing so would be in the best interests of the child.” (570)

FACTUAL BACKGROUND

G.K. was adjudicated a neglected child and placed in CFSA's legal custody. He developed severe behavioral and psychiatric problems, including bipolar disorder, and was hospitalized for psychiatric treatment. During a 2009 hospitalization, his mother refused consent to continued psychotropic medication, and the Family Court found that refusal contrary to G.K.'s best interests but ordered CFSA to make the medication decisions instead of making the required determination itself.

PROCEDURAL HISTORY

G.K. was adjudicated neglected and placed in CFSA's legal custody. After G.K. was hospitalized and his mother declined to consent to continued psychotropic medication, the Family Court ordered CFSA to make medication decisions after consulting physicians. The District appealed that order, arguing that CFSA lacked statutory authority to consent to non-emergency psychotropic medication and that the Family Court improperly delegated its judicial responsibility.

DISPOSITION

reversed

CASES CITED

- District of Columbia v. Morrissey, 668 A.2d 792, 796, 798 (D.C. 1995)
- Odeniran v. Hanley Wood, LLC, 985 A.2d 421, 427 (D.C. 2009)
- In re Walker, 856 A.2d 579, 586 (D.C. 2004)
- Graham v. Bernstein, 527 A.2d 736, 739 (D.C. 1987)
- Martin v. United States, 283 A.2d 448, 450-51 (D.C. 1971)
- In re A.G., 900 A.2d 677, 680 (D.C. 2006)
- Santosky v. Kramer, 455 U.S. 745, 753 (1982)
- In re K.I., 735 A.2d 448, 450, 454, 456 (D.C. 1999)
- In re J.S.R., 374 A.2d 860, 864 (D.C. 1977)
- In re W.D., 988 A.2d 456, 465 n.10 (D.C. 2010)
- Brown v. United States, 766 A.2d 530, 538 (D.C. 2001)

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