

SUPREME COURT OF RHODE ISLAND

In re Dayvon G.

10 A.3d 448 (R.I. 2010) · Decided December 14, 2010

SUMMARY

The Rhode Island Supreme Court affirmed a Family Court decree terminating Kamesha G.'s parental rights to Dayvon and Selena. The court held that clear and convincing evidence supported termination under the statutory ground requiring at least twelve months in DCYF custody without a substantial probability of safe reunification within a reasonable time. Because that ground was sufficient, the court did not address the alternative grounds of chronic substance abuse and abandonment.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Chief Justice Suttell; Flaherty; Goldberg; Indeglia; Robinson; Suttell
JURISDICTION	Rhode Island
DECIDED	December 14, 2010
DISPOSITION	affirmed
PROCEDURAL POSTURE	Respondent appealed from Family Court decrees terminating her parental rights to Dayvon and Selena. The Supreme Court considered the appeal under a show-cause order and summarily decided it after reviewing the record and the parties' submissions.
STANDARD OF REVIEW	The Supreme Court reviews termination-of-parental-rights rulings to determine whether the Family Court justice's findings are supported by legally competent evidence. The findings receive great weight and will not be disturbed unless clearly wrong or unless the trial justice overlooked or misconceived material evidence. Parental unfitness must be established by clear and convincing evidence.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Kamesha G. v. Rhode Island Department of Children, Youth and Families

TOPICS

- termination of parental rights
- parental rights
- family law procedure
- appellate procedure
- standard of review

PRACTICE AREAS

family law

termination of parental rights

appellate procedure

constitutional law

QUESTIONS PRESENTED

1. Whether the Family Court clearly erred in finding, by clear and convincing evidence, that the children had been in DCYF custody for at least twelve months, that services had been offered or received, and that there was no substantial probability of their safe return to respondent within a reasonable period under R.I. Gen. Laws § 15-7-7(a)(3).
2. Whether the Supreme Court needed to address the additional termination grounds of chronic substance abuse and abandonment after affirming termination on the twelve-month custody and lack-of-probability-of-return ground.

HOLDINGS

1. The Family Court properly terminated respondent's parental rights under R.I. Gen. Laws § 15-7-7(a)(3) because the children had been in DCYF custody for the required period, respondent had been offered services, and there was no substantial probability that they could safely return to her care within a reasonable period.
2. The Supreme Court did not need to address the chronic-substance-abuse and abandonment grounds because termination was properly affirmed on the twelve-month custody and lack-of-probability-of-safe-return ground.
3. The state must prove parental unfitness by clear and convincing evidence, and the Supreme Court gives great weight to Family Court factual findings, disturbing them only when clearly wrong or when material evidence was overlooked or misconceived.

KEY QUOTATIONS

“A parent’s genuine love for their 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.” (10 A.3d at 455)

“Because we affirm the termination of the respondent’s parental rights on this basis, we need not address the termination of the respondent’s parental rights on the grounds of chronic substance abuse and abandonment.” (10 A.3d at 456)

FACTUAL BACKGROUND

Dayvon was placed in DCYF care at birth after respondent tested positive for marijuana during pregnancy, and Selena was removed from respondent's care at approximately two months of age after respondent left both children with unapproved caretakers while traveling to New York. Over approximately three and a half years, DCYF offered respondent case plans and services addressing substance abuse, mental health, parenting, and visitation, but respondent repeatedly missed appointments, failed to complete services, and inconsistently attended visits. A psychological evaluation identified significant mental-health, cognitive, and coping difficulties, and the Family Court found no substantial probability that the children could safely return to

respondent within a reasonable period. The children were bonded to their foster family, which was a pre-adoptive placement.

PROCEDURAL HISTORY

DCYF filed petitions seeking involuntary termination of respondent's parental rights on grounds of chronic substance abuse, the children's placement in DCYF custody for at least twelve months without a substantial probability of safe return within a reasonable period, and abandonment. After a nine-day trial, the Family Court terminated respondent's parental rights on all three grounds. The Supreme Court affirmed based on the twelve-month custody and lack-of-probability-of-return ground and declined to address the other two grounds.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The record was remanded to the Family Court.

CASES CITED

- In re Ariel N., 892 A.2d 80, 83 (R.I. 2006)
- In re Rene B., 544 A.2d 137, 140 (R.I. 1988)
- In re Brook Ann R., 994 A.2d 1241, 1243-1244 (R.I. 2010)
- In re Destiny D., 922 A.2d 168, 172 (R.I. 2007)
- Santosky v. Kramer, 455 U.S. 745, 753 (1982)
- In re Pricillion R., 971 A.2d 599, 604 (R.I. 2009)
- In re Victoria L., 950 A.2d 1168, 1174 (R.I. 2008)
- In re Brianna D., 798 A.2d 413, 415 (R.I. 2002)
- In re William, Susan, and Joseph, 448 A.2d 1250, 1251 (R.I. 1982)