

SUPREME COURT OF UTAH

In re B.T.B. and B.Z.B.

2020 UT 36 · No. 20180805 · Decided June 22, 2020

SUMMARY

The Utah Supreme Court reviewed a parental-rights termination proceeding involving two children and their biological father. The court addressed the statutory requirements of grounds for termination, the child’s best interests, and whether termination was “strictly necessary” under Utah law. It affirmed the Utah Court of Appeals’ remand for the juvenile court to reconsider the termination petition under the clarified legal standard.

CASE DETAILS

COURT	Supreme Court of Utah
WRITING FOR THE COURT	Justice Pearce; Chief Justice Durrant; Associate Chief Justice Lee; Justice Himonas; Justice Petersen
JURISDICTION	Utah
DECIDED	June 22, 2020
DOCKET	20180805
DISPOSITION	remanded
PROCEDURAL POSTURE	Certiorari review of the Utah Court of Appeals' decision remanding a juvenile-court termination-of-parental-rights order for reconsideration under a clarified statutory framework.
STANDARD OF REVIEW	On certiorari, the court reviews the decision of the court of appeals for correctness.
PRECEDENTIAL VALUE	Published precedential opinion of the Utah Supreme Court
PARTIES	V.T.B. v. B.T.B., B.Z.B., J.P.B.

TOPICS

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

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Utah Court of Appeals properly disavowed prior language suggesting that, once statutory grounds for termination are established, termination is almost automatically in a child's best interest.
2. Whether the requirement that termination be strictly necessary is part of the best-interest inquiry or constitutes a separate and sequentially primary element of termination.
3. Whether termination must be strictly necessary only when an adoption or similar permanent change in the child's living situation is contemplated.
4. Whether the court of appeals properly remanded the case for the juvenile court to reconsider the termination petition under the clarified statutory standard.

HOLDINGS

1. Establishing a statutory ground for termination does not make termination almost automatically in the child's best interest. The juvenile court must separately determine whether termination is in the child's best interest, with the petitioner bearing the applicable burden of proof.
2. After finding a statutory ground for termination, the court must determine as part of the best-interest inquiry whether termination is strictly necessary to promote the child's welfare and best interest.
3. The strictly necessary and best-interest analysis must be undertaken from the child's point of view, while the court must account for the legislatively established preference for preserving natural-family relationships.
4. The court of appeals properly remanded the matter for the juvenile court to reconsider the termination petition under the correct interpretation of the Act.

KEY QUOTATIONS

“Thus, if a court finds statutory grounds for termination, the court must determine if termination is strictly necessary for the welfare and best interest of the child.” (§ 62)

“A court may then terminate parental rights only when it concludes that a different option is in the child's best interest and that termination is strictly necessary to facilitate that option.” (§ 66)

“If the child can be equally protected and benefited by an option other than termination, termination is not strictly necessary.” (§ 67)

FACTUAL BACKGROUND

B.T.B. and B.Z.B. are the children of Mother and Father, who married in 2010, separated in 2012, and divorced in 2013. Between June 2012 and the 2017 termination petition, Father visited the children only a handful of times, did not write or otherwise contact them while incarcerated, and made only one attempted cash payment of \$400 toward child support. The juvenile court found by clear and convincing evidence that Father had

abandoned and neglected the children, made only token efforts to support or communicate with them, and was unfit.

PROCEDURAL HISTORY

Mother petitioned the juvenile court to terminate Father's parental rights. After an evidentiary hearing, the juvenile court found several statutory grounds for termination, found termination in the children's best interest, and concluded that termination was strictly necessary. The Utah Court of Appeals clarified the statutory analysis and remanded for reconsideration. The Utah Supreme Court granted cross-petitions for certiorari, affirmed the court of appeals' interpretation and remand, and instructed the juvenile court to reconsider the petition under the clarified standard.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The juvenile court must revisit Mother's termination petition and apply the interpretation of the Termination of Parental Rights Act set forth by the Utah Supreme Court, including determining whether termination is strictly necessary to promote the children's welfare and best interest and considering feasible alternatives to termination.

CASES CITED

- In Interest of B.T.B., 2018 UT App 157, ¶¶ 1, 13-63, 436 P.3d 206
- 438 Main St. v. Easy Heat, Inc., 2004 UT 72, ¶ 72, 99 P.3d 801
- Pulham v. Kirsling, 2019 UT 18, ¶ 18, 443 P.3d 1217
- State ex rel. A.C.M., 2009 UT 30, ¶ 23, 221 P.3d 185
- State ex rel. T.E., 2011 UT 51, ¶¶ 17-18, 266 P.3d 739
- In re Castillo, 632 P.2d 855, 856-57 (Utah 1981)
- In Interest of Winger, 558 P.2d 1311, 1313 (Utah 1976)
- In re J. P., 648 P.2d 1364, 1367, 1377 (Utah 1982)
- In re Estate of S.T.T., 2006 UT 46, ¶ 28, 144 P.3d 1083
- State ex rel. C.K., 2000 UT App 11, ¶¶ 18, 23-24, 996 P.2d 1059
- State ex rel. R.A.J., 1999 UT App 329, ¶¶ 7, 22, 991 P.2d 1118
- In re State in Interest of L.J.J., 360 P.2d 486, 488 (Utah 1961)
- In re Bradley, 167 P.2d 978, 984 (Utah 1946)
- State in Interest of R.N.J., 908 P.2d 345, 351 (Utah Ct. App. 1995)
- State, in interest of J.D., 2011 UT App 184, ¶¶ 11, 34, 257 P.3d 1062
- State in Interest of Z.J., 2017 UT App 118, ¶¶ 9, 11, 400 P.3d 1230
- In re Adoption of A.M.O., 2014 UT App 171, ¶¶ 20-22, 332 P.3d 372
- State in Interest of J.R.T., 750 P.2d 1234, 1238 (Utah Ct. App. 1988)

- State in Interest of K.C., 2015 UT 92, ¶ 27, 362 P.3d 1248
- State in interest of M.H., 2014 UT 26, ¶ 44, 347 P.3d 368
- A.S. v. R.S., 2017 UT 77, ¶ 2, 416 P.3d 465
- Santosky v. Kramer, 455 U.S. 745, 747-48 (1982)
- State v. Hatfield, 2020 UT 1, ¶ 16, 462 P.3d 330
- State v. Garcia, 2017 UT 53, ¶ 52, 424 P.3d 171
- State v. Gallegos, 2020 UT 19, ¶ 58