

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Bobbie Jo R. v. Traci W.

No. 11-1753 (W. Va. June 7, 2013) · No. No. 11-1753 (Wood County 11-D-611) · Decided June 7, 2013

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the dismissal of petitions seeking sibling visitation and intervention in a custody-related proceeding. The Court held that the family court lacked subject-matter jurisdiction over the sibling-visitation petition and that Bobbie Jo R. had no independent right or claim supporting intervention. The decision also discusses the requirements for intervention under West Virginia Rule of Civil Procedure 24.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Brent D. Benjamin; Justice Robin Jean Davis; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	June 7, 2013
DOCKET	No. 11-1753 (Wood County 11-D-611)
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioners appealed the Wood County Circuit Court orders affirming the Family Court of Wood County's dismissal of a petition for sibling visitation and denial of Bobbie Jo R.'s motion to intervene.
STANDARD OF REVIEW	The circuit court concluded that the family court's findings were not clearly erroneous and that the family court did not abuse its discretion. The Supreme Court independently addressed subject matter jurisdiction, which may be raised at any time and noticed by the court on its own motion.
PRECEDENTIAL VALUE	Published memorandum decision; the opinion states that it is issued under Rule 21 and finds no substantial question of law or prejudicial error.
PARTIES	Bobbie Jo R., Myles R., by his next friend and biological mother, Jennifer P. v. Traci W.

TOPICS

visitation

subject matter jurisdiction

intervention

family law procedure

appellate procedure

PRACTICE AREAS

family law

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the Family Court of Wood County had subject matter jurisdiction over a petition for sibling visitation under West Virginia Code § 48-9-103.
2. Whether the denial of Bobbie Jo R.'s motion to intervene was erroneous under Rule 24 of the West Virginia Rules of Civil Procedure.
3. Whether the lower courts erred by dismissing the petitions and by allegedly failing to address equal protection, due process, summary-judgment, and legal-authority arguments.

HOLDINGS

1. The family court lacked subject matter jurisdiction over the petition for sibling visitation because West Virginia law assigns jurisdiction over sibling-visitiation matters to the circuit courts, not family courts.
2. The denial of Bobbie Jo R.'s motion to intervene was not error because no statute conferred a right to intervene, she had no established legal relationship to Myles or Maddox, and she identified no claim or defense sharing a question of law or fact with the main action.
3. The Supreme Court may affirm a circuit court decision on any independently sufficient legal ground supported by the record, including a ground not relied upon below.

KEY QUOTATIONS

“the jurisdiction of family courts is limited to only those matters specifically authorized by the Legislature . . . [and] circuit courts have jurisdiction of sibling visitation.” (at 2)

“Lack of subject matter jurisdiction may be raised in any appropriate manner . . . and at any time during the pendency of the suit or action.” (at 3)

“Petitioner has no independent, surviving claim.” (at 4)

FACTUAL BACKGROUND

Myles R. and Maddox R. were conceived through artificial insemination of different biological mothers using sperm from the same anonymous donor. Myles's biological mother sought sibling visitation with Maddox, although the children had never met or lived together. Bobbie Jo R., who had lived with Maddox's biological mother from at least Maddox's birth until November 2010, claimed to be Maddox's psychological parent and sought to intervene and obtain custodial rights.

PROCEDURAL HISTORY

Jennifer P., on behalf of Myles R., filed a petition seeking sibling visitation with Maddox R. Bobbie Jo R. moved to intervene and sought custodial responsibility and decision-making authority concerning Maddox. The Family Court of Wood County denied intervention and dismissed the petitions; the circuit court affirmed in two orders entered November 23, 2011. The Supreme Court of Appeals affirmed, but concluded that the family court lacked subject matter jurisdiction over the sibling-visitation petition.

DISPOSITION

affirmed

CASES CITED

- Visitation of Cathy L.(R.)M. v. Mark Brent R., 217 W. Va. 319, 617 S.E.2d 866 (2005)
- Lindsie D.L. v. Richard W.S., 214 W. Va. 750, 591 S.E.2d 308 (2003)
- McKinley v. Queen, 125 W. Va. 619, 25 S.E.2d 763 (1943)
- Charleston Apartments Corp. v. Appalachian Elec. Power Co., 118 W. Va. 694, 192 S.E. 294 (1937)
- In re Boggs' Estate, 135 W. Va. 288, 63 S.E.2d 497 (1951)
- Dawson v. Dawson, 123 W. Va. 380, 15 S.E.2d 156 (1941)
- State ex rel. Hammond v. Worrell, 144 W. Va. 83, 106 S.E.2d 521 (1958)
- Patterson v. Patterson, 167 W. Va. 1, 277 S.E.2d 709 (1981)
- Honaker v. Burnside, 182 W. Va. 448, 388 S.E.2d 322 (1989)
- Looper v. McManus, 581 P.2d 487 (Okla. Ct. App. 1978)
- Schmehl v. Helton, 222 W. Va. 98, 662 S.E.2d 697 (2008)
- Murphy v. Smallridge, 196 W. Va. 35, 468 S.E.2d 167 (1996)
- Halstead v. Dials, 182 W. Va. 695, 391 S.E.2d 385 (1990)