

COURT OF APPEALS OF TEXAS, SECOND DISTRICT, FORT WORTH

In the Interest of E.G., a Child

No. 2-09-087-CV · No. No. 2-09-087-CV · Decided October 15, 2009

SUMMARY

The Texas Court of Appeals, Second District, reviewed a mother's challenge to the legal and factual sufficiency of the evidence supporting the best-interest finding in an involuntary termination of parental rights proceeding. The court held that the evidence supported termination based on the mother's constructive abandonment, failure to comply with court-ordered services, unstable circumstances, drug use, and the child's favorable placement with foster parents. The court affirmed the county court's judgment.

CASE DETAILS

COURT	Court of Appeals of Texas, Second District, Fort Worth
WRITING FOR THE COURT	McCoy; Dauphinot; Gardner
JURISDICTION	Texas
DECIDED	October 15, 2009
DOCKET	No. 2-09-087-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Mother appealed the termination of her parental rights, challenging the legal and factual sufficiency of the evidence supporting the trial court's finding that termination was in the child's best interest.
STANDARD OF REVIEW	For legal sufficiency, the court viewed all evidence in the light most favorable to the best-interest finding, assumed disputed facts were resolved in favor of the finding when a reasonable factfinder could do so, disregarded evidence a reasonable factfinder could have disbelieved, and considered undisputed contrary evidence. For factual sufficiency, the court considered the entire record, gave due deference to the factfinder, and asked whether a factfinder could reasonably form a firm belief or conviction that termination was in the child's best interest.
PRECEDENTIAL VALUE	Memorandum opinion; likely nonprecedential under Texas Rule of Appellate Procedure 47.4.
PARTIES	Mother v. Department of Family and Protective Services

TOPICS

termination of parental rights

parental rights

standard of review

appellate procedure

family law procedure

PRACTICE AREAS

family law

termination of parental rights

appellate procedure

QUESTIONS PRESENTED

1. Whether legally sufficient evidence supported the finding that termination of Mother's parental rights was in E.G.'s best interest.
2. Whether factually sufficient evidence supported the finding that termination of Mother's parental rights was in E.G.'s best interest.

HOLDINGS

1. The evidence was legally sufficient to support the county court's finding that termination of Mother's parental rights was in E.G.'s best interest.
2. The evidence was factually sufficient to support the county court's finding that termination of Mother's parental rights was in E.G.'s best interest.

KEY QUOTATIONS

"While parental rights are of constitutional magnitude, they are not absolute." (at 3)

"There is a strong presumption that keeping a child with a parent is in the child's best interest." (at 4)

FACTUAL BACKGROUND

Mother was fourteen when E.G. was born in September 2006. Approximately one year later, CPS removed E.G. from Mother's care; evidence showed that E.G. was dirty, had a diaper rash, wore a backward dirty diaper, and had clothing and shoes that did not fit. Mother admitted using marijuana while caring for E.G., missing most scheduled visits, failing to complete required services, having unstable housing and employment, and opposing E.G.'s immunizations. E.G. had spent fifteen months in foster care, where the foster parents provided a stable home and sought to adopt her.

PROCEDURAL HISTORY

Child Protective Services removed E.G. from Mother's care, and the Department of Family and Protective Services petitioned to terminate Mother's parental rights. A jury rendered a termination verdict. Mother requested a de novo hearing in the county court at law, which took judicial notice of the jury-trial record, heard additional evidence, and entered an order terminating her parental rights. The court of appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Santosky v. Kramer, 455 U.S. 745, 758-59, 102 S. Ct. 1388, 1397 (1982)
- In re M.S., 115 S.W.3d 534, 547 (Tex. 2003)
- In re C.H., 89 S.W.3d 17, 26-28 (Tex. 2002)
- Hollick v. Smith, 685 S.W.2d 18, 20-21 (Tex. 1985)
- In re M.C.T., 250 S.W.3d 161, 167 (Tex. App.—Fort Worth 2008, no pet.)
- In re J.L., 163 S.W.3d 79, 84 (Tex. 2005)
- In re J.F.C., 96 S.W.3d 256, 263 (Tex. 2002)
- In re J.A.J., 243 S.W.3d 611, 616 (Tex. 2007)
- In re J.P.B., 180 S.W.3d 570, 573-74 (Tex. 2005)
- In re H.R.M., 209 S.W.3d 105, 108 (Tex. 2006)
- In re R.R., 209 S.W.3d 112, 116 (Tex. 2006)
- Holley v. Adams, 544 S.W.2d 367, 371-72 (Tex. 1976)

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