

TENTH COURT OF APPEALS OF TEXAS

In the Interest of A.L.M.-F., A.M., J.A.-F., N.A.-F., and E.A.-F., Children

564 S.W.3d 441 (Tex. App.—Waco 2017) · No. 10-17-00020-CV · Decided June 14, 2017

SUMMARY

The Texas Tenth Court of Appeals affirmed the termination of Jessie F.'s parental rights to five children. The court held that the trial court did not abuse its discretion by denying Jessie's jury demand for the de novo hearing and that the evidence was factually sufficient to support the finding that termination was in the children's best interest.

CASE DETAILS

COURT	Tenth Court of Appeals of Texas
WRITING FOR THE COURT	Tom Gray; Chief Justice Gray; Justice Davis; Justice Scoggins
JURISDICTION	Texas
DECIDED	June 14, 2017
DOCKET	10-17-00020-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Jessie F. appealed a judgment terminating her parental rights after the referring district court denied her jury demand for a de novo hearing and upheld the associate judge's termination ruling.
STANDARD OF REVIEW	The denial of a jury trial is reviewed for abuse of discretion. Factual sufficiency of a best-interest finding in a parental-rights termination case is reviewed with due deference to the factfinder; the appellate court asks whether, on the entire record, a factfinder could reasonably form a firm conviction or belief that termination was in the child's best interest.
PRECEDENTIAL VALUE	Published opinion; precedential value not otherwise specified in the opinion.
PARTIES	Jessie F.

TOPICS

termination of parental rights

family law procedure

appellate procedure

standard of review

PRACTICE AREAS

family law

termination of parental rights

appellate procedure

civil procedure

QUESTIONS PRESENTED

1. Whether the referring trial court abused its discretion by denying Jessie's jury demand for the de novo termination hearing.
2. Whether the evidence was factually sufficient to support the finding that termination of Jessie's parental rights was in the children's best interest.

HOLDINGS

1. The trial court did not abuse its discretion by denying Jessie's jury demand because the circumstances supported the opposing parties' showing that a jury trial would cause injury, delay, and disruption in the termination proceeding.
2. The evidence was factually sufficient for the referring court to find by the required firm-conviction standard that termination of Jessie's parental rights was in the children's best interest.

KEY QUOTATIONS

“Rather, the timeliness of the request creates a rebuttable presumption that a jury demand should be granted.” (at 443)

“The evidence of Jessie's past and present instability, lack of a safe and suitable residence, refusal to complete her service plan, and ongoing drug use taken with the children's substantial positive improvement in their circumstances from when they were in their mother's care was factually sufficient for the referring court to have found that termination of the parent-child relationship was in the best interest of the children.” (at 448)

“Having found no reversible error, we affirm the judgment of the trial court.” (at 448)

FACTUAL BACKGROUND

The Department became involved after the children's twin brothers tested positive for marijuana, and Jessie failed to complete required services, had positive drug tests, and exposed the children to unsafe and unsanitary living conditions and domestic violence. After removal, the children were placed with relatives, where they were clean, healthy, improving, and in stable placements; the older children expressed a desire to remain there. Jessie continued to show instability, failed to complete her service plan and parenting-related services, continued drug use for much of the case, and lacked a safe and suitable housing plan.

PROCEDURAL HISTORY

The final termination hearing was initially conducted by an associate judge on September 7 and September 28, 2016. After being advised of the ruling, Jessie filed a jury demand and requested a de novo hearing before the referring district court. The referring court denied the jury demand and conducted the de novo hearing using the transcript and exhibits from the associate judge's proceeding, then affirmed the termination judgment.

DISPOSITION

affirmed

CASES CITED

- In re L.R., 324 S.W.3d 885, 889-90 (Tex. App.—Austin 2010, orig. proceeding)
- Harrell v. Harrell, 986 S.W.2d 629, 631 (Tex. App.—El Paso 1998, no pet.)
- Mercedes-Benz Credit Corp. v. Rhyne, 925 S.W.2d 664, 666 (Tex. 1996)
- Girdner v. Rose, 213 S.W.3d 438, 443-44 (Tex. App.—Eastland 2006, no pet.)
- Simpson v. Stem, 822 S.W.2d 323, 324 (Tex. App.—Waco 1992, orig. proceeding)
- Crittenden v. Crittenden, 52 S.W.3d 768, 769 (Tex. App.—San Antonio 2001, pet. denied)
- In re H.R.M., 209 S.W.3d 105, 108 (Tex. 2006)
- In re C.H., 89 S.W.3d 17, 27-28 (Tex. 2002)
- Holley v. Adams, 544 S.W.2d 367, 371-72 (Tex. 1976)