

WYOMING SUPREME COURT

LM v. Laramie County Department of Family Services

171 P.3d 1077 (Wyo. 2007) · Decided December 5, 2007

SUMMARY

The Wyoming Supreme Court reversed and remanded a termination-of-parental-rights decision because the district court neither appointed a guardian ad litem for the children nor made the findings required by statute. The court held that Wyo. Stat. Ann. § 14-2-812 is mandatory and requires either appointment of a guardian ad litem or an express finding that another party will adequately represent the children's interests without an adverse conflict.

CASE DETAILS

COURT	Wyoming Supreme Court
WRITING FOR THE COURT	Chief Justice Voigt; Burke; Golden; Hill; Kite; Voigt
JURISDICTION	Wyoming
DECIDED	December 5, 2007
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from an order terminating the appellant's parental rights.
STANDARD OF REVIEW	Statutory interpretation is reviewed de novo as a question of law, without deference to the district court.
PRECEDENTIAL VALUE	published opinion
PARTIES	LM v. Laramie County Department of Family Services

TOPICS

- termination of parental rights
- guardian ad litem
- statutory interpretation
- appellate procedure
- family law procedure

PRACTICE AREAS

- family law
- parental rights
- termination of parental rights
- guardianship

QUESTIONS PRESENTED

1. Whether Wyo. Stat. Ann. § 14-2-812 requires the district court in a parental-rights termination proceeding either to appoint a guardian ad litem for the child or children or to make the statutory

findings excusing appointment.

2. Whether the district court's failure to comply with § 14-2-812 constituted fundamental error requiring reversal.

HOLDINGS

1. Wyo. Stat. Ann. § 14-2-812 is an unambiguous mandatory statute requiring the district court either to appoint a guardian ad litem to represent the child or children in a parental-rights termination action or to find that the petitioner or another party will adequately represent the children's interests and that those interests are not adverse to that party.
2. Failure to comply with the mandatory guardian-ad-litem requirement in a parental-rights termination proceeding is fundamental error requiring reversal.

KEY QUOTATIONS

“Wyo. Stat. Ann. § 14-2-812 is an unambiguous mandatory statute that requires the district court in a parental rights termination action either to appoint a guardian ad litem to represent the involved child or children, or to make a finding that no guardian ad litem is necessary because the petitioner or another party to the action will adequately represent the interests of the child or children, and the interests of the child or children are not adverse to that party.” (¶ 18)

“Strict adherence to Wyo. Stat. Ann. § 14-2-812 guarantees that children's rights will be protected, and failure to abide by the statute is fundamental error requiring reversal.” (¶ 17)

FACTUAL BACKGROUND

The Department of Family Services petitioned to terminate the appellant's parental rights to her three children. The petition was heard on June 7, 2006, and the district court subsequently entered a document that effectively terminated the appellant's parental rights. It was uncontested that the district court had not appointed a guardian ad litem for the children and had not made findings that the statutory exception to appointment applied.

PROCEDURAL HISTORY

The Laramie County Department of Family Services filed a petition to terminate the appellant's parental rights to three children. After a hearing, the district court entered findings of fact and conclusions of law that effectively terminated the parental rights. No guardian ad litem was appointed for the children, and the Wyoming Supreme Court reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the district court for further proceedings consistent with the opinion, including compliance with Wyo. Stat. Ann. § 14-2-812.

CASES CITED

- Worcester v. State, 2001 WY 82, ¶ 13, 30 P.3d 47, 52
- Wesaw v. Quality Maintenance, 2001 WY 17, ¶ 13, 19 P.3d 500, 506
- In re Claim of Prasad, 11 P.3d 344, 347 (Wyo. 2000)
- Pierson v. State, 956 P.2d 1119, 1125 (Wyo. 1998)
- Amrein v. State, 836 P.2d 862, 864-65 (Wyo. 1992)
- In re Worker's Compensation Claim of Johnson, 2001 WY 48, ¶ 8, 23 P.3d 32, 35
- In re Hernandez, 8 P.3d 318, 321 (Wyo. 2000)
- Parker Land and Cattle Co. v. Wyoming Game and Fish Comm'n, 845 P.2d 1040, 1045 (Wyo. 1993)
- Jessen v. Burry, 13 P.3d 1118, 1120 (Wyo. 2000)
- Soles v. State, 809 P.2d 772, 773 (Wyo. 1991)
- Radalj v. Union Savings & Loan Ass'n, 59 Wyo. 140, 138 P.2d 984, 996 (1943)
- Union Pac. Res. Co. v. Dolenc, 2004 WY 36, ¶ 13, 86 P.3d 1287, 1291-92
- Rodriguez v. Casey, 2002 WY 111, ¶¶ 9-10, 50 P.3d 323, 326-27
- Stutzman v. Office of Wyo. State Eng'r, 2006 WY 30, ¶ 17, 130 P.3d 470, 475
- Merrill v. Jansma, 2004 WY 26, ¶ 42, 86 P.3d 270, 288
- In re DCP, 2001 WY 77, ¶ 16, 30 P.3d 29, 32
- In re LePage, 2001 WY 26, ¶ 12, 18 P.3d 1177, 1180
- MB v. Laramie County Dep't of Family Servs., 933 P.2d 1126, 1129 (Wyo. 1997)
- In re Parental Rights of PP, 648 P.2d 512, 513 (Wyo. 1982)
- Clark v. Alexander, 953 P.2d 145 (Wyo. 1998)
- In re FM, 2007 WY 128, ¶¶ 25-26, 163 P.3d 844, 850-51