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Legal Report

SWAN Legal Services Initiative

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Spotlights

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SPOTLIGHT: UNITED STATES SUPREME COURT

Thompson v. Clark

In 2014, petitioner Larry Thompson's sister-in-law called 911 to report that Thompson was abusing his infant daughter after seeing red marks on her body. Both EMTs and police officers arrived separately in response to the call. Thompson insisted that the officers needed a warrant to enter the residence and refused to let them in. The officers, however, barged inside, threw Thompson to the ground, and forcibly arrested him. The officers later claimed that Thompson had violently resisted arrest. Thompson was jailed and charged with resisting arrest and obstructing governmental administration. At the hospital, medical professionals found no sign of abuse and determined the red marks on the baby were the result of diaper rash. Thompson remained in police custody for two days before being released. The state dropped the charges shortly after. Thompson filed a Section 1983 malicious prosecution claim against the police officers involved, alleging that he was detained without probable cause as a result of baseless charges, in violation of the Fourth Amendment. Under 42 U.S.C. § 1983, damages are authorized for actions against state and local officials for constitutional violations. A federal district court granted judgment in favor of the officers due to Thompson's failure to establish favorable termination of his criminal case. The appellate court affirmed, ruling that Thompson could not bring this claim, as this type of suit is permitted only if the prior prosecution ends in a way that somehow demonstrates the innocence of the accused person.

In a 6-3 decision, the Supreme Court of the United States ruled in favor of Thompson. The Court held that plaintiffs like Thompson need only show that their prosecutions ended without a conviction, and that there is no additional need to show "indications of innocence."

SUPERIOR COURT OF PENNSYLVANIA

In the Interest of: K.B., Appeal of R.H., Mother

Date of Decision: April 8, 2022

Cite: 2022 PA Super 60

Holdings: The trial court did not err in adjudicating the child dependent when the record indicated that DHS proved by clear and convincing evidence a "present inability" of Mother and Father to provide the child with proper parental care. Further, the trial court did not err in denying Mother's request to participate in the adjudication hearing telephonically, as the issue was not specifically or timely preserved for appeal.

Facts and Procedural History: Philadelphia Department of Human Services ("DHS") obtained an Order for Protective Custody ("OPC") of the minor child, age two months, due to unexplained skull fractures and bruising, placing the child with his maternal aunt. A shelter care hearing was held on October 1, 2021, at which time the court ordered that the child remain in the temporary legal custody of DHS and in his maternal aunt's home. The adjudication hearing was originally scheduled for October 7, 2021, but was continued to November 15, 2021, due to outstanding medical records of the child. On October 8, 2021, Mother, without authorization,

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took the child from a medical appointment and absconded with him to her current residence in Florida. An OPC was filed by the Florida Department of Children and Families (“DCF”) and granted by a Judge removing the child from mother’s custody.

An adjudicatory hearing was held on November 15, 2021 in Philadelphia County. Mother did not attend the hearing. At the time of the hearing, Mother’s counsel requested that mother be permitted to participate by phone since she was in Florida. The request was denied. An expert doctor testified that he examined the child and found bruising on child’s inner thighs, multiple rib fractures, and the child’s skeletal survey indicated multiple fractures. Mother and father were unable to offer any plausible explanation for the injuries. The doctor diagnosed the child with nonaccidental or inflicted trauma due to multiple injuries at different stages of healing one with no plausible accidental mechanism or underlying medical predisposition. All counsel stipulated to the doctor’s findings in the CPS report. The trial court adjudicated the child dependent. The court ordered that the child be placed in a foster home and that the case be transferred to Pinellas County, Florida. After the Florida court assumed legal custody of the child, the Pennsylvania trial court discharged the temporary commitment of the child and discharged the dependency petition. Mother filed an appeal.

Issues:

1. Did the trial court judge rule in error that the Philadelphia Department of Human Services (DHS) met its burden of proof that the child should be adjudicated dependent under 42 Pa.C.S. §6302(1)?
2. Did the trial court judge rule in error to not allow Mother to participate by phone?

Rationale: The Court first addressed Mother’s argument that DHS had not met its burden of proof that the child should be adjudicated as a dependent child. The Court reviewed the evidence presented at the adjudication hearing and determined no abuse of discretion by the trial court in adjudicating the child dependent when finding that DHS had showed by clear and convincing evidence a “present inability” in mother and father to provide child with proper parental care.

The parties stipulated to facts of the doctor’s diagnosis of the child, which clearly evidenced that the child suffered multiple injuries without either parent offering a plausible explanation for such serious injuries and no genetic disease was responsible. The record further indicated the child was unsafe in mother’s care due to her deliberate and unauthorized act of absconding with the child to her home in Florida in violation of a court order.

The Court then addressed Mother’s argument that the trial court erred by denying her request to participate in the adjudicatory hearing telephonically, citing she had to return to Florida due to economic concerns. The Court determined that the trial court’s conclusion was supported by the record, where mother’s

Did you know?

Pa.R.J.C.P. 1129 “Upon good cause shown, a court **may** utilize advanced communication technology pursuant to Rule 1129.” (emphasis added). Rule 1129 **permits**, but in no way compels, the use of advanced communication, technology in dependency proceedings. 237 Pa.Code §1129 (A), Comments.

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counsel did not advocate for mother to participate via telephone and that mother failed to raise a timely and specific objection to the court's ruling to preserve the issue for appeal, hence waiving it. The Court went on to state that even if waiver did not apply, the trial court's denial of Mother's accommodation under Rule 1129 was not in error.

SPOTLIGHT

MEMORANDUM FROM THE DEPARTMENT OF HUMAN SERVICES

On April 29, 2022, the Department of Human Services issued a memorandum to provide guidance to County Children and Youth Agencies (CCYAs) about information-sharing with Local Education Agencies (LEAs). To read the memorandum in its entirety, please click on the link provided below.

<https://www.pccyfs.org/wp-content/uploads/2022/05/Maintaining-Confidentiality-while-Sharing-Information-with-Schools101546.pdf>.

NOTICE FROM THE DEPARTMENT OF HUMAN SERVICES

On April 23, 2022, the Department of Human Services issued a notice that they are increasing the income limits and co-payments for determination of the federal poverty income guidelines and updating the income requirements for the Subsidized Child Care Program. For more information and to see the updated charts, please click on the link provided below.

<https://www.pabulletin.com/secure/data/vol52/52-17/610.html>.