

U.S. Supreme Court Hears Termination of Parental Rights Case: M.L.B. v. S.L.J.

Linda A. Szymanski, Director of Legal Research, NCJJ

Introduction

On October 9, 1996, the U.S. Supreme Court heard oral arguments in a case that originated in the Chancery Court of Benton County, Mississippi on November 15, 1993. The case will determine whether indigent parents have the right to a waiver of the costs of preparing the appellate record in appeals of trial court decisions terminating their parental rights.

Facts of the Case

After the divorce of M.L.B. and S.L.J., the two children of the marriage remained in the custody of their father, S.L.J. The father later remarried and he and his new wife filed this case in the Chancery Court of Benton County, Mississippi, to terminate the parental rights of the children's natural mother, and to have the children adopted by the father's new wife. After a three day trial, the Chancery Judge issued an order terminating the natural mother's parental rights. Under Mississippi law, an appeal of right can be taken from all lower court final judgments in parental termination cases. The natural mother filed a timely notice of appeal to the Mississippi Supreme Court on January 11, 1995. She intended to argue on appeal that the Chancery Court's decision terminating her parental rights was unsupported by, and contrary to, the evidence presented. The mother could not afford to pay the costs of preparing and transmitting the record. The mother filed a motion to suspend the rules, for leave to appeal in forma

pauperis, and to brief the issue of in forma pauperis appeals. The state supreme court denied all the motions. On April 1, 1996, the United States Supreme Court granted the writ of certiorari to hear the case. Throughout this litigation, the mother has been represented by pro bono counsel.

Summary of Brief for Petitioner

Petitioner's counsel states the question presented for review by the Supreme Court as follows: In a State that provides appeals as a matter of right from adverse lower court decisions terminating parental rights, may the State, consistent with the Due Process and Equal Protection Clauses of the Fourteenth Amendment, condition those appeals upon a parent's ability to pay appeal fees in excess of two thousand dollars?

The petitioner's brief argues that given the fundamental nature of parental rights, and given the right to appeal granted under state law, it violates the Fourteenth Amendment to open this appeal only to those who have enough money, while closing it to those who do not.

The brief goes on to argue that there will be little financial burden on the state if those who cannot now afford it are allowed to appeal parental terminations along with those who can.

Summary of Brief for Respondent

Respondents' counsel states the questions presented for

review by the Supreme Court as follows: whether Mississippi impinges a fundamental right when it requires all civil appellants to prepay appeal costs? and does the Fourteenth Amendment require the State of Mississippi to subsidize an indigent for the cost of appeal from a trial court decision terminating parental rights?

The brief goes on to argue that state law provides extensive safeguards, including a high standard of proof, to assure accurate decisions at the trial court level.

As an aside, the brief points out that no child who has been freed for adoption, and certainly no child who has been adopted, should be burdened with the uncertainty and fear associated with an attempt to overturn the termination because the indigent parent was not provided a free transcript for appeal.

NCJJ Snapshot is a copyrighted publication of the National Center for Juvenile Justice. NCJJ is a non-profit organization that conducts research (statistical, legal, and applied) on a broad range of juvenile justice topics and provides technical assistance to the field.

For additional information or to request a custom analysis, contact NCJJ at 710 Fifth Avenue, Pittsburgh, PA 15219 Phone: (412) 227-6950.

ISSN 1093-9369
Price: \$3

Suggested Citation:
Szymanski, L. (1996) U.S. Supreme Court Hears Termination of Parental Rights Case: M.L.B. v. S.L.J. *NCJJ Snapshot*, 1(7). Pittsburgh, PA: National Center for Juvenile Justice