MISSOURI COURT OF APPEALS
WESTERN DISTRICT

IN THE INTEREST OF A.J.C., JUVENILE:
L.E.R. AND L.C.R., Respondents,
v.
A.J.C., Appellant.

DOCKET NUMBER WD86706

DATE: August 27, 2024

Appeal From:

The Circuit Court of Vernon County, Missouri
The Honorable David R. Munton, Judge

Appellate Judges:

Division Two: Thomas N. Chapman, Presiding Judge, Karen King Mitchell and W. Douglas Thomson, Judges

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Attorneys:

Elizabeth Unger Carlyle, Kansas City, MO, Attorney for L.E.R. and L.C.R.

Peter A. Lee, Stockton, MO, Attorney for Appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

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WD86706 Vernon County

Before Division Two Judges: Thomas N. Chapman, Presiding Judge, Karen King Mitchell and W. Douglas Thomson, Judges

A.J.C. (Mother) appeals from an order entered by the Vernon County Circuit Court, Juvenile Division, terminating her parental rights to A.J.C. (Child). Mother raises one point on appeal. She claims the trial court erred in denying her motion to dismiss the termination proceedings because they were initiated by the Child's attorneys-in-fact (Attorneys-in-Fact), and § 475.602, RSMo, prohibits attorneys-in-fact from consenting to termination of parental rights. Finding no error, we affirm.

AFFIRMED.

Division Two holds:

1. Section 211.261.1, RSMo, allows a parent adversely affected by a final judgment, order or decree under Chapter 211 (Juvenile Division) to appeal that decision.

2. After a final judgment has been entered, an order denying a motion to dismiss can be reviewed as part of the appeal from the final judgment. Here, denial of Mother's motion to dismiss was part of the final order terminating her parental rights to Child.

3. In a court-tried case, we will affirm the trial court's judgment unless there is no substantial evidence to support it, it is against the weight of the evidence, or it erroneously declares or applies the law.

4. Section 475.602.1 allows a parent or legal custodian of a child to delegate, by a properly executed power of attorney, to an attorney-in-fact the care and custody of the child, except the attorney-in-fact may not consent to adoption of the child or termination of parental rights.

5. When interpreting a statute, we give effect to legislative intent as reflected in the plain language of the statute.

6. The plain language of § 475.602.1 contemplates that certain parental rights and responsibilities, namely "powers regarding the care and custody of the child," may be delegated via a power of attorney, but other parental rights and responsibilities, specifically the "power to consent to . . . termination of parental rights," may not be so delegated.

7. The term "consent" is not defined in Chapter 475. A term not defined by statute is afforded its plain and ordinary meaning as derived from the dictionary. When used as a verb, "consent" means "to give assent or approval."

8. The fact that attorneys-in-fact may not assent to or approve termination of parental rights does not mean that attorneys-in-fact are prohibited from petitioning a court for termination. Rather, § 475.602 simply limits the rights that may be transferred via a power of attorney. Section 475.602 does not limit the right of attorneys-in-fact to petition for termination or adoption.

9. Without some indication from the legislature that it intended to exclude attorneys-in-fact acting under § 475.602.1 from the ranks of those who may petition for termination of parental rights and adoption, we decline to interpret § 475.602.1 to impose such a limitation.

10. To the extent Attorneys-in-Fact claim any authority to seek termination of Mother's parental rights and adopt Child, they do so by recognizing their statutory rights as prospective parents under §§ 211.447.6, RSMo, and 453.010.1, RSMo.

11. To bar Attorneys-in-Fact in this scenario from seeking termination and adoption would contravene § 453.005, RSMo, which calls for liberal construction of the chapter's adoption provisions to promote the welfare and best interests of the child.

Opinion by: Karen King Mitchell, Judge August 27, 2024

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