

STATE OF LOUISIANA IN THE INTEREST OF

NO. 18-C-389

B. L.

FIFTH CIRCUIT

COURT OF APPEAL

STATE OF LOUISIANA

July 25, 2018

Susan Buchholz
First Deputy Clerk

IN RE R. L., JR AND L. L., PATERNAL GRANDPARENTS

APPLYING FOR SUPERVISORY WRIT FROM THE JEFFERSON PARISH JUVENILE COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE ANDREA PRICE JANZEN, DIVISION "B", NUMBER 2011-CC-119

Panel composed of Judges Fredericka Homberg Wicker,
Stephen J. Windhorst, and Marion F. Edwards, Judge Pro Tempore

WRIT GRANTED; MATTER REMANDED

By this writ application, Lisa and Robbie Lauland, Jr., the paternal biological grandparents of a minor child (B.F.), request review of a decision by the Juvenile Court denying their “Motion to Intervene, Motion for Immediate Family Placement, and Request for Notice of Proceedings Pursuant to La. Ch. C. Art. 623A.” The Juvenile Court summarily denied the motions without conducting a hearing on the matter.

The written reasons for judgment show that the child was born on November 22, 2017, as a drug-exposed infant and remained in NICU for about 20 days. She came into care on December 11, 2017 by court order, and was placed in foster care. Subsequent DNA testing established that Robbie Lauland, III is the biological father. That evidence was entered into the court record on March 5, 2018. Mr. Lauland’s parents filed the motions at issue herein on June 22, 2018.

The reasons for judgment show that the trial court considered assessments by Early Steps and an evaluation by Tulane Parenting Education Program, as well as a recommendation that the child remain in care and in her current placement. The trial judge correctly pointed out that intervention is discretionary with the court pursuant to La. Ch. C. art. 697, and ultimately concluded that:

This court was not made aware of any interest of Lisa and Robbie Lauand, Jr. concerning visitation and/or custody of B.F. (11/22/17) until the filing of the above mentioned motions on June 22, 2018, approximately seven months since the inception of the case in the Juvenile Court, at which time the minor was approximately eight months old. The paternal grandparents knew or should have known the child was placed in the custody of the Department of Children and Family Services as the father of the minor, their son, lives at their home and is married to the mother of the child.

Although the decision to allow an interested party to intervene in the case, and become involved in proceedings to facilitate the permanent placement of a child is discretionary with the court, the best interest of the child must be paramount in court decisions for purposes of both adoption and custody.¹ The grandparents were denied any opportunity to be heard or to present their case for why their intervention is in the best interest of their granddaughter primarily because they failed to file for intervention until the child was eight months old.

We find the juvenile court erred in denying the grandparents' motions without a hearing or any consideration of what is in the best interest of the child. We hereby grant the writ application and remand the matter to the trial court for a hearing on, and full consideration of, the "Paternal Grandparents' Motion to

¹*State in Interest of P.T.*, 2014-1160 (La. App. 3 Cir. 3/4/15), 159 So.3d 1184, 1193, *writ denied*, 2015-0693 (La. 5/1/15), 169 So. 3d 378.

Intervene, Motion for Immediate Family Placement, and Request for Notice of Proceedings Pursuant to La. Ch. C. Art. 623A.”

Gretna, Louisiana, this 25th day of July, 2018.

MFE
FHW
SJW

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
ROBERT A. CHAISSON
ROBERT M. MURPHY
STEPHEN J. WINDHORST
HANS J. LILJEBERG

JUDGES



FIFTH CIRCUIT
101 DERBIGNY STREET (70053)
POST OFFICE BOX 489
GRETNA, LOUISIANA 70054
www.fifthcircuit.org

CHERYL Q. LANDRIEU
CLERK OF COURT

MARY E. LEGNON
CHIEF DEPUTY CLERK

SUSAN BUCHHOLZ
FIRST DEPUTY CLERK

MELISSA C. LEDET
DIRECTOR OF CENTRAL STAFF

(504) 376-1400
(504) 376-1498 FAX

NOTICE OF DISPOSITION CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE DISPOSITION IN THE FOREGOING MATTER HAS BEEN TRANSMITTED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 4-6** THIS DAY **07/25/2018** TO THE TRIAL JUDGE, THE TRIAL COURT CLERK OF COURT, AND AT LEAST ONE OF THE COUNSEL OF RECORD FOR EACH PARTY, AND TO EACH PARTY NOT REPRESENTED BY

CHERYL Q. LANDRIEU
CLERK OF COURT

18-C-389

E-NOTIFIED

Kristine K. Sims (Relator)
Jennifer G. Womble (Respondent)

MAILED

Frances M. Olivier (Relator)
Attorney at Law
2341 Metairie Road
Metairie, LA 70001

Lisa P. Harrell (Respondent)
Attorney at Law
848 2nd Street
3rd Floor
Gretna, LA 70053

Jesse S. George (Respondent)
Attorney at Law
935 Gravier Street
Suite 1340
New Orleans, LA 70112

Elizabeth G. Lincoln (Respondent)
Attorney at Law
State of Louisiana, Department of Children
and Family Services
1450 Poydras Street
Suite 1600
New Orleans, LA 70112