

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2015 CU 0404

SANDY COLONA

VERSUS

CHARLOTTE BLACKWELL

Judgment Rendered: JUN 05 2015

Appealed from the
21st Judicial District Court
In and for the Parish of Tangipahoa, Louisiana
Trial Court Number 2014-0001448
Honorable Jeffery T. Oglesbee, Judge

Angelia F. Huszar
Hammond, LA

Attorney for Appellee
Plaintiff – Sandy Colona

Raymond C. Burkart, III
Covington, LA

Attorney for Appellant
Defendant – Charlotte Blackwell

BEFORE: PETTIGREW, WELCH, AND CHUTZ, JJ.

JAW
JCP
J

WELCH, J.

Charlotte Blackwell, the mother of the minor child B.L.B., appeals a judgment that awarded Sandy Colona, the child's paternal grandmother, visitation with the minor child. We affirm the judgment in compliance with Uniform Rules—Courts of Appeal, Rule 2-16.2(A)(5), (6), (7), and (8).

Brandon Colona and Charlotte Blackwell were involved in a relationship that resulted in the conception and birth of one child, B.L.B., who was born on April 12, 2010. Brandon Colona subsequently stipulated to his paternity of the child. In addition, the parties stipulated that they would share joint custody of the child, with Charlotte Blackwell designated as the child's domiciliary parent, subject to specific periods of physical custody in favor of Brandon Colona. Thereafter, on June 3, 2013, Brandon Colona died under tragic circumstances. His mother, Sandy Colona, then instituted these proceedings seeking visitation with the minor child. After an evidentiary hearing, the trial court rendered judgment awarding Sandy Colona visitation with the minor child on the first Saturday of every month from 10:00 a.m. until 2:00 p.m. From this judgment, Charlotte Blackwell appeals, essentially arguing that the trial court erred in finding that it was in the best interest of the child for Sandy Colona to be awarded visitation.

Every child custody case must be viewed in light of its own particular set of facts. **Dettman v. Rablee**, 2001-1228 (La. App. 1st Cir. 9/28/01), 809 So.2d 373, 377. The trial court is in the best position to ascertain the best interest of the child given each unique set of circumstances. **Bercegeay v. Bercegeay**, 96-0516 (La. App. 1st Cir. 2/14/97), 689 So.2d 674, 676. The trial court is vested with vast discretion in matters of child custody and visitation. Accordingly, its determination regarding same is entitled to great weight and will not be disturbed on appeal unless an abuse of discretion is clearly shown. **Stephens v. Stephens**, 2002-0402 (La. App. 1st Cir. 6/21/02), 822 So.2d 770, 774.

Louisiana Civil Code article 136¹ provides in pertinent part as follows:

B. A grandparent may be granted reasonable visitation rights if the court finds that it is in the best interest of the child. ...

* * *

D. In determining the best interest of the child under Paragraphs B and C of this Article, the court shall consider:

(1) The length and quality of the prior relationship between the child and the relative.

(2) Whether the child is in need of guidance, enlightenment, or tutelage which can best be provided by the relative.

(3) The preference of the child if he is determined to be of sufficient maturity to express a preference.

(4) The willingness of the relative to encourage a close relationship between the child and his parent or parents.

(5) The mental and physical health of the child and the relative.

In granting visitation to Sandy Colona, the trial court offered the following oral reasons for judgment:

...Ms. Blackwell, I just want to tell you I – I know you're in a very difficult position. You have a child with someone who's deceased ... And I don't know how you explain that to a child ... But at some point, the questions will come up and you're going to have to tell him or talk to him about it. ...But I do believe that there is some value in [B.L.B.] having at least some type of relationship with Brandon's family.

Ms. Colona ... it sounds like you [and Brandon] went through a rough patch. But through all the testimony I heard from your family, you had made up toward the end of [Brandon's] life and that you were part of – of [B.L.B.'s] life in some – in some fashion. I know you've asked the court for ... what I would consider extensive visitation ... and I don't believe that that's warranted at this time. I do think some limited visitation between you and [B.L.B.] is warranted. I believe that's in his best interest.

When I reviewed the factors in – in [La. C.C. art.] 136, I do think that he needs to have some type of relationship with Brandon's family.

¹ There is no dispute that La. R.S. 9:344 (providing for visitation rights of grandparents and siblings when a parent dies, is interdicted, or is incarcerated) is not applicable herein, as Brandon Colona and Charlotte Blackwell were neither married nor living in concubinage.

Therefore, the court is going to award visitation with Ms. Sandy Colona the first Saturday of each month from ten o'clock in the morning till [*sic*] two o'clock in the afternoon. ...

Now, Ms. Colona, there are some other restrictions that I'm going to place on you. You've lost a son. ... However, I do not think it's appropriate for you to necessarily discuss [the circumstances under which Brandon died] with [B.L.B.]...

...I'm going to ask everybody ... including you, Ms. Charlotte, to try to encourage and facilitate these visitations. ... I've heard everything today and I believe its in [B.L.B.'s] best interest to at least explore the possibility of having a relationship with Brandon's family. So I'm going to ask you to help encourage and facilitate that ... those visits and that relationship. ... [T]his is something that's worth exploring. I think it can give [B.L.B.] some benefit. ...

We have thoroughly reviewed the testimony and evidence contained in the record before us. Based on the testimony from Sandy Colona, as well as her family members, regarding the relationship that she enjoyed with B.L.B. prior to Brandon Colona's death, and considering the vast discretion given to the trial court, we cannot say that the trial court abused its discretion in awarding visitation to Sandy Colona. The trial court considered the factors set forth in La. C.C. art. 136 and concluded that an award of limited visitation, consisting of four hours once a month, to allow B.L.B. to develop and maintain a relationship with his father's family was warranted. This limited visitation is neither unreasonable nor a significant intrusion upon the child's life with Charlotte Blackwell and does not diminish her authority or undermine her ability to raise B.L.B. as she sees fit. Accordingly, we cannot say that the trial court erred in its determination that visitation with Sandy Colona was in the child's best interest.

For the above and foregoing reasons, the judgment of the trial court is affirmed. All costs of this appeal are assessed against the defendant/appellant, Charlotte Blackwell.

AFFIRMED.