

In re Dependency of K.N.J.
Dissent by Alexander, J.

No. 83516-1

ALEXANDER, J. (dissenting)—The legislature has determined that “the family unit is a fundamental resource of American life.” RCW 13.34.020. Because family relationships are exalted, they should be nurtured. Therefore, this court should not promote or countenance shortcuts in the process of terminating the relationship between parent and child. Unfortunately, this is what the majority does here. Thus, I dissent.

In order to terminate the parent-child relationship, the State must prove six statutory elements. The first of these elements is that the child *has* been found to be a dependent. The State clearly failed to establish this element as to K.N.J.’s father. That being the case, the trial court should not have gone on to decide if a termination of K.N.J.’s relationship with her father was in K.N.J.’s best interest.

I reach this conclusion because, as the majority concedes, the order finding K.N.J. to be a dependent child was void insofar as it relates to the child’s father. The majority skirts this obvious defect in the State’s showing by concluding that the facts supporting a dependency finding were found at the later termination trial. This

No. 83516-1

conclusion is, in my view, quite startling because it ignores the fact that the dependency determination is to precede the filing of the termination petition and the holding of the termination hearing. In that regard, RCW 13.34.180(1)(a) provides: “A petition seeking termination of a parent and child relationship may be filed in juvenile court . . . and shall allege all of the following . . . (a) That the child *has* been found to be a dependent child.” (Emphasis added.)

The most troubling aspect of the majority’s decision, though, is that the opinion invites, if not encourages, petitioning parties, including the State, to bypass what the majority rightly determines is the first step of the termination process, the dependency proceeding, and allows the State to establish the dependency in one hybrid dependency/termination proceeding. While the majority may deem this a more efficient way to handle some termination cases, this procedure runs roughshod over a parent’s ability to establish that the family unit should remain intact.

No. 83516-1

AUTHOR:

Justice Gerry L. Alexander

WE CONCUR:

Justice Charles W. Johnson
