

Amicus Curiae Briefs Family Law Issues

Adoption

Case: *In Re Adoption of Baby Z*

Court: Supreme Court of the State of Connecticut, 1999

Amicus Brief: Day, Berry, and Howard LLP

Case: Petitioners Anne and Malinda brought suit after being denied a second-parent adoption. The petitioners have lived together as partners for over 10 years. Anne gave birth to Baby Z through artificial insemination. Anne and Malinda filed for second-parent adoption of Baby Z in the Probate Court.

Amicus Brief: The brief states that it is in the best interest of Baby Z that Malinda adopt him. The brief argues that the Connecticut statute should be read broadly to permit such an adoption and preserve the continuity of Baby Z's positive parent-child relations with Malinda. The brief also argues that the trial court correctly interpreted the adoption statutes to grant the adoption review board subject matter jurisdiction to permit a waiver of the "placement requirements" based upon the facts of the case.

CWEALF: CWEALF joined the brief because of its commitment to protecting the rights of women, to ending discrimination against GLBT individuals and couples, and to promoting protections to all families.

Holding: The Connecticut Supreme Court reversed the lower court's decision in favor of Anne and Malinda. The Court held that the Adoption Review Board lacked the jurisdiction to consider the waiver application submitted by the Probate Court in connection with Anne's and Malinda's adoption applications. The Court, in essence, ruled against the adoption on technical reasons. * Co-parent adoption is now permitted by statute.

Case: *In re Adoption of CCG and ZCG* (second-parent adoption)

Court: Superior Court of the Western District of Pennsylvania, 1999

Amicus Brief: Women's Law Project

Case: The case involves a gay couple that has lived together for 18 years. The couple has two children who are 7 and 8. Both children were adopted by one of their fathers shortly after birth, resulting in one legal parent for each child. The parents sought a second-parent adoption in Erie, PA and they were denied the co-parent adoption. They appealed.

Amicus Brief: The brief states that the current adoption law contradicts the law's general purpose: to further the welfare of children and to enfold the adopted child into his or her new family as a full member. The lower court interpretation of the PA Adoption Act misconstrued the consent and stepparent provisions of the Act. The lower court interpretation would deny children

equal protection of the law by depriving them of the opportunity to be adopted by their second parent solely because of their parents' marital status.

CWEALF: CWEALF became involved because CWEALF believes that permitting second parent adoption is in the best interests of children and because CWEALF is committed to ending discrimination based on sexual orientation.

Holding: In a decision issued on June 6, 2000, the PA Superior Court affirmed the lower court's dismissal of the adoption petition. Note: The Pennsylvania Supreme Court granted review of this case in conjunction with *In re R.B.F.* (see below). On appeal, the Pennsylvania Supreme Court vacated the decisions and remanded the cases to the trial court so the couples might have the opportunity to show good cause as to why the courts should grant the adoptions despite the lack of a recognized marital relationship between the legal parent and the prospective adoptive parent. The Pennsylvania Supreme Court held that the adoption statute permitted courts to dispense with formalities where such good cause was shown.

Case: *In re Adoption of RBF and RCF* (second-parent adoption)

Court: Superior Court of Pennsylvania, Middle District, 2000

Amicus Brief: Women's Law Project

Case: C.H.F. and B.A.F. are a lesbian couple who have been together since 1983. After deciding to start and raise a family together, C.H.F. became pregnant through artificial insemination and gave birth to twin boys. B.A.F. legally changed her last name to that of C.H.F.'s and filed a petition to adopt the boys. The trial court dismissed the petition, and B.A.F. appealed.

Amicus Brief: The brief states that the trial court's strict interpretation of the Pennsylvania Adoption Statute erroneously considers adoption by a spouse of the legal parent to preclude adoption by non-spouses. This interpretation of the law contradicts the law's general purpose: to further the welfare of children and to enfold the adopted child into his or her new family as a full member. If the statute is construed in this manner, then it is unconstitutional for it unduly burdens children based on the marital status of their parents by purposely denying the children of unmarried partners the legal stability of a two-parent home without providing any rational basis or important state interest for doing so. Furthermore, it is in the children's best interest to preserve the familial ties they will develop with their non-biological parent by granting legal recognition to that relationship.

CWEALF: CWEALF became involved because CWEALF believes that permitting second parent adoption is in the best interests of children and because CWEALF is committed to ending discrimination based on sexual orientation.

Holding: The Pennsylvania Superior Court affirmed the lower court's dismissal of the adoption petition. Note: The Pennsylvania Supreme Court granted review of this case in conjunction with *In re C.C.G.* (see above). On appeal, the Pennsylvania Supreme Court vacated the decisions and remanded the cases to the trial court so the couples might have the opportunity to show good cause as to why the courts should grant the adoptions despite the lack of a recognized marital

relationship between the legal parent and the prospective adoptive parent. The Pennsylvania Supreme Court held that the adoption statute permitted courts to dispense with formalities where such good cause was shown.