

ORIGINAL

IN THE SUPREME COURT OF OHIO

In re A.G.

On Appeal from the Lucas County Court of Appeals, Sixth Appellate District

Court of Appeals  
Case No. L-14-1079

Supreme Court No. 14-2181

---

APPELLEE'S RESPONSE TO MEMORANDUM IN SUPPORT OF JURISDICTION  
OF APPELLANT PATSY GRANT

---

Philip M. Collins (0001354)  
COLLINS & SLAGLE CO., LPA  
21 East State Street, Suite 930  
Columbus, OH 43215  
P: (614) 228-1144  
F: (614) 228-7619  
pcollins@collins-slagle.com

Counsel for Appellant

Bradley W. King (0089459)  
Lucas County Children Services  
705 Adams Street  
Toledo, OH 43604  
P: (419) 213-3328  
F: (419) 327-3586  
Bradley.king@co.lucas.oh.us

Counsel for Appellee

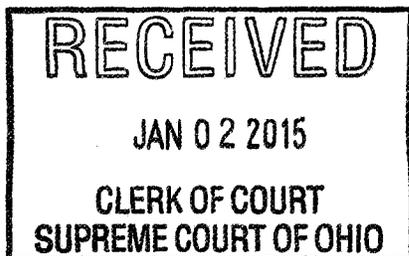
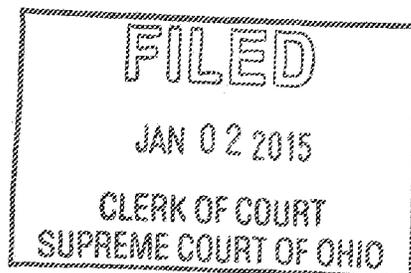


TABLE OF CONTENTS

THIS CASE PRESENTS NO UNIQUE CONSTITUTIONAL ISSUES. APPELLANT  
WAS AFFORDED EVERY CONSTITUTIONAL PROTECTION FOR THE  
PERMANENT CUSTODY TRIAL.....1

CONCLUSION.....3

CERTIFICATE OF SERVICE.....5

**THIS CASE PRESENTS NO UNIQUE CONSTITUTIONAL ISSUES.  
APPELLANT WAS AFFORDED EVERY CONSTITUTIONAL PROTECTION  
FOR THE PERMANENT CUSTODY TRIAL.**

Appellant argues that her constitutional rights were not upheld. Further, Appellant argues that proceeding to the permanent custody trial was unfair because of a change in trial counsel. However, the transcript reveals that no objection was ever made to the proceedings, no continuance was requested by any party, and there were no issues presented that would have changed the outcome had Appellant had more time to prepare. There is no question of fairness or constitutionality before this Court.

A careful reading of Appellant's brief reveals a repetitive argument with very little substance. Appellant attempts to persuade this Court to believe that the trial court proceeded to trial earlier than it needed to and in a way that was "unfair" to Appellant. However, not only did the trial court never officially rule on the timeliness of the trial, there was also never a request for a continuance by any party involved. It cannot be determined how the trial court would have responded to such a request because it did not happen.

Appellant cites this Court's decision in *Ungar v. Sarafite*, 376 U.S. 575 (Ohio 1964) as grounds for this appeal. However, *Sarafite* deals with an actual denial of a continuance. The Court discusses the possibility that a denial of a continuance could potentially inhibit a person's right to trial defense. However, Appellant fails to use *Sarafite* correctly because no request for a continuance was made. Appellant ignores the plain explanation of the Appellate Court in that no request for a continuance was ever before the trial court at any time during the proceedings.

Appellant's brief is misleading in that it attempts to take the language from the transcript and morph it into some kind of explicit court order. Appellant's original trial counsel created a situation in which he had to be removed as counsel. However, Appellant can only point to Appellant's new counsel as remarking "I was only appointed a week ago" and needing to "get up to speed." (Pretrial Tr., Mar. 7, 2014, at 14-15). The newly appointed counsel was confident in moving forward as the trial date approached.

What Appellant does not point out in her brief is the fact that Appellant's replacement trial counsel subpoenaed witnesses, cross-examined opposing witnesses, made numerous objections throughout the entirety of the case, and stated, on the record, that she was not going to call any witnesses during her case in chief *after discussing it with her client*. Appellant's brief would make it seem as though the trial court ruled mercilessly and with an iron fist and that Appellant was helpless to stop it. In reality, neither the Appellant, the relative parties, the guardian ad litem, nor children services requested a continuance. Appellant's trial counsel subpoenaed and prepared witnesses, made a very high number of objections, and was not afraid to speak up directly to the bench. As such, Appellant's attempts to twist the facts in order to make it look like there was some kind of denial of a continuance is a misrepresentation. Accordingly, the Appellant's request for jurisdiction should be found not well taken and denied.

Appellant attempts to use the term "fair" throughout her brief in perhaps an attempt to appeal to the emotional aspect of these cases. However, a review of the transcript will reveal that Appellant was extremely familiar with the trial court process and had, in fact, just litigated the issue of her ability to parent the child in question and three siblings just a few months prior. Appellant's own actions served as the basis why

legal custody was not awarded to the father of the siblings to A.G. Had legal custody been awarded, Appellant's rights would not have been terminated. Nevertheless, Appellee was forced to file for permanent custody and the proceedings proceeded with no request for a continuance and no objection to the late addition of trial counsel.

Furthermore, there is no indication that Appellant or her trial counsel would have benefited from additional time. Not only had this particular case lasted for the entirety of the statutory standard year plus two six month extensions, but also there was testimony that Appellant had been involved with children services for over a decade. There was further testimony that Appellant was afforded every opportunity to hone her parenting skills and demonstrate her ability to provide stability and permanence for her children, and she could not do it. Not only did neither Appellant nor her trial counsel request a continuance, but there is no indication that Appellant would have benefited from pushing the trial date out further.

There is, however, evidence that A.G. needed permanency. Again, reviewing the transcript reveals that the original intent was for A.G. to live with her siblings with their biological father. The transcript indicates that Appellant sabotaged this plan: a plan that would not have severed her parental rights of A.G. Instead, Appellant was more interested in combating children services and bringing in other unapproved relatives as a way to prevail over Appellee.

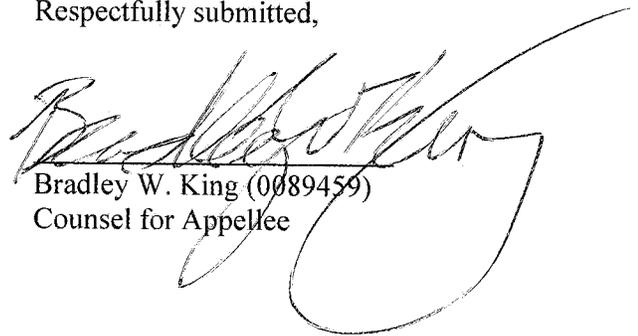
Appellant's brief is littered with terms like "shortcuts" and "unfairness," but in reality, the only real injustice is that for A.G. This child has been delayed permanency in large part due to Appellant's actions. She is not in the legal custody of her siblings' father because of Appellant. Appellee had to proceed to permanent custody because of

Appellant. And now Appellant is attempting to delay permanency even further for baseless reasons.

**CONCLUSION**

The entirety of Appellant's brief to this Court seems to boil down to the false notion that the trial court somehow ruled on the issue of a continuance, despite never being presented with the issue. It is undeniable that the trial court highlighted the importance of expeditious proceedings and permanency for A.G., but it never made an official ruling that the trial must proceed. It certainly never denied any requests for a continuance. Appellant's trial counsel made objections, subpoenaed witnesses, cross-examined witnesses, made closing statements, and only "failed" to call any witnesses on behalf of Appellant after stating, on the record, that she and Appellant decided not to call any as trial strategy. There is no constitutional questions presented, there is no question of fairness. Appellant was afforded every protection under the law, and lost at the trial court and the appellate court levels on the merit of the case. Respectfully, this Court should find Appellant's request not well taken and denied and affirm the decision of the lower court.

Respectfully submitted,

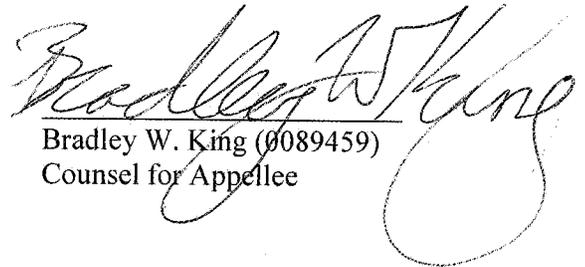


Bradley W. King (0089459)  
Counsel for Appellee

Certificate of Service:

The undersigned certifies that a true and accurate copy of the foregoing Response to Memorandum of Appellant in Support of Jurisdiction has been mailed, postage prepaid, to the following on this 26<sup>th</sup> day of December, 2014:

Philip M. Collins (0001354)  
COLLINS & SLAGLE CO., LPA  
21 East State Street, Suite 930  
Columbus, OH 43215  
P: (614) 228-1144  
F: (614) 228-7619  
pcollins@collins-slagle.com

  
Bradley W. King (0089459)  
Counsel for Appellee