

No. 2016-0395

In the Supreme Court of Ohio

APPEAL FROM THE COURT OF APPEALS
TENTH APPELLATE DISTRICT
FRANKLIN COUNTY, OHIO
CASE NO. 15AP-884

IN RE: [C.C.S],
Petitioner-Appellant,

v.

ADOPTION BY GENTLE CARE,
Respondent-Appellee.

APPELLEE'S OPPOSITION TO APPELLANT'S MOTION FOR INJUNCTION

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RESPONSE TO APPELLANT' S MOTION FOR INJUNCTION

Appellee Adoption by Gentle Care (“AGC”) opposes Appellant Caroline Stearns’s (“Ms. Stearns”) motion for an injunction because it is not necessary. In order to place Appellant’s motion in the proper context, a brief description of the background of this case is helpful.

In this case, Ms. Stearns, a then-pregnant, 38-year-old, college-educated woman contacted AGC in 2014 and met with an AGC social worker to discuss the option of adoption and executed an adoption plan. After giving birth and waiting one day beyond the statutory waiting period, Ms. Stearns signed a Permanent Surrender contract giving AGC permanent custody of her son. Her signing of the Permanent Surrender was witnessed by two licensed social workers and a question and answer colloquy with Ms. Stearns was recorded. In addition to the Permanent Surrender contract, Ms. Stearns also signed a notarized Affidavit of Relinquishment.

Thereafter, Ms. Stearns filed a petition for writ of habeas corpus which sought to invalidate the Permanent Surrender contract. The case proceeded to a bench trial. After five days of testimony, Ms. Stearns rested and the trial court granted AGC’s motion for involuntary dismissal pursuant to Civ.R. 41(B)2 and dismissed Ms. Stearns’s petition. After an initial remand ordering the trial court to explain its decision in more detail, the Tenth District in the second appeal unanimously affirmed the trial court’s dismissal of Ms. Stearns’s petition. In its decision, the appellate court noted the limited nature of Ms. Stearns’s appeal: “On appeal, C.L.S. does not challenge the legal standard applied or the validity of the evidence presented at trial. C.L.S. only asks that we look at the totality of

circumstances to come to a different conclusion than the trial court. * * * Essentially this case was a question of fact, not law." *In re C.C.S.*, 2016-Ohio-388 at ¶¶ 22, 42.

During this entire litigation and while this case was on appeal, AGC has consistently maintained the *status quo* and taken the position that, while AGC will continue with the formal placement of the child with the prospective adoptive family, no formal adoption will be finalized while Ms. Stearns continues to appeal the dismissal of her petition. Notably, after losing her appeal, Ms. Stearns asked the Tenth District for an injunction prohibiting the finalization of the adoption of this child while she appeals to this Court. AGC responded that no injunction is necessary in light of AGC's position that it will not finalize any adoption while Ms. Stearns appeals to this Court. (Specifically, AGC, as the party with current legal custody of the child, ultimately will have to give its consent to the adoption of the child by the prospective adoptive family in order to finalize the adoption.) AGC stated below:

AGC will not provide its written consent to adoption until any one of the following occurs: (a) the time period for filing a notice of appeal to the Ohio Supreme Court expires without a notice of appeal being filed by Ms. Stearns; (b) Ms. Stearns files a notice of appeal and the Ohio Supreme Court declines to accept jurisdiction over this case; or (c) the Ohio Supreme Court accepts jurisdiction and affirms this case. In other words, this child will not be formally adopted by the prospective adoptive family while the possibility of an appeal to the Ohio Supreme Court exists.

(AGC's February 22, 2016 Opposition to Appellant's Post-Judgment Motion for Injunction, Tenth District Court of Appeals Case No. 15AP-884 at p. 4) After receiving AGC's response, the Tenth District denied Ms. Stearns's request for an injunction.

AGC continues to maintain this *status quo* position. AGC will not consent to the finalization of the adoption of this child while this case is pending in this Court. Thus, no injunction is necessary.

Respectfully submitted,

/s Jon W. Oebker

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PROOF OF SERVICE

A copy of the foregoing was served on March 22, 2016 per S.Ct.Prac.R. 3.11(B) by mailing it by United States mail to:

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