

Supreme Court of Texas
September 27, 2013

In re Lee

No. 11-0732

Case Summary written by Jamie Vaughan, Staff Member.

Justice Lehrmann announced the Court's decision and delivered the opinion of the Court with respect to Parts I, II, III, V, and VII, in which Justices Johnson, Willett, Guzman, and Boyd joined, and delivered an opinion with respect to Parts IV and VI, in which Justices Johnson, Willett, and Boyd joined.

Stephanie Lee and Benjamin Redus were joint managing conservators of their minor daughter who entered into a mediated settlement agreement (MSA) modifying an order adjudicating parentage. The modifications provided that Lee's new husband, who was a registered sex offender, was not to be within five miles of the child at any time. Redus went to court to prove-up the MSA, but the judge refused to enter an order on the MSA, deciding that it was not in the child's best interest to do so after hearing testimony from Redus about Lee's new husband's contact with the child. The relevant portion of the Family Code states that as long as certain requirements are met, a party is entitled to judgment on their MSA "notwithstanding . . . other rules of law." However, there is also a section that says that "a court may decline to enter a judgment" on an MSA if "a party to the agreement was a victim of family violence, and that circumstance impaired the party's ability to make decisions, and the agreement is not in the child's best interest." Lee then filed a motion to have a judgment entered on the MSA, but the trial court refused based on the child's best interest. Lee petitioned for a writ of mandamus, which the appellate court rejected.

Issue: May a trial court choose to deny a motion for the entry of a judgment based on an MSA based on the trial court's finding that the MSA is not in the child's best interest, if the MSA complies with all the requirements of the Family Code?

The court held that, where an MSA complies with the Family Code, it is not within the trial court's discretion to deny a motion to enter judgment on the MSA. The court first examined the statute and determined that it clearly and unambiguously indicated that a court must order judgment on statutorily compliant MSA unless a very narrow exception was met involving family violence. Because this case did not involve family violence, the trial court abused its discretion by not entering a judgment on the MSA. The court reasoned that, if this provision was in conflict with other portions of the Family Code that state that courts must always consider the best interest of the child, statutory construction demands that the above-quoted section trumps because: (1) more specific portions always trump over more general

ones; and (2) the language “notwithstanding other law” requires that this provision trump other portions of the Family Code. Finally, the court responded to the dissent’s argument that this holding subjected children to negligence or abuse by pointing out that other statutory methods of protecting children exist, and MSAs are inherently in the best interest of the child because they are easier on the children psychologically than long, combative trials between their parents. Accordingly, the court granted Lee’s petition for mandamus relief.

Guzman, J., Concurring

While Justice Guzman agrees that the statute in question precludes the court from using its discretion based on the child’s best interest, she does not believe courts are precluded from using their discretion based on child endangerment. Justice Guzman agrees with the holding of the court because there was no showing at trial of endangerment.

Green, J., joined by Chief Justice Jefferson, Hecht, J., and Devine, J., dissenting

The dissent argues that there is no difference between best interest of the child and endangerment, and a court’s primary consideration should always be best interest of the child. The dissent insists that the statute must be read as a whole, the portion of the statute that says “entitled to judgment” should not be read as an absolute, and the portion that says “notwithstanding . . . another rule of law” should not be narrowly. Underlying the dissent’s argument is the policy consideration that can be found throughout the family code that it is the trial court’s duty to protect the child and look out for the child’s best interest. In this case, the dissent argues, where the evidence has negated the presumption that the parties to the MSA acted in the best interest of the child, it is within the trial court’s discretion to refuse to enter an order on the MSA.