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Date 2-15-05
No. 53409

M.L.B. v. S.L.J., No. 95-853 (U.S. 12/16/1996)

[1] SUPREME COURT OF THE UNITED STATES

[2] No. 95-853

[3] 1996.SCT.0000217 <http://www.versuslaw.com>

[4] December 16, 1996

[5] **M. L. B., PETITIONER**

v.

S. L. J., INDIVIDUALLY AND AS NEXT FRIEND OF THE MINOR CHILDREN, S. L. J. AND M. L. J., ET UX.

[6] SYLLABUS BY THE COURT

[7] Certiorari to the Supreme Court of Mississippi

[8] No. 95-853

[9] Argued October 7, 1996

[10] Decided December 16, 1996

[11] In a decree forever terminating petitioner M. L. B.'s parental rights to her two minor children, a Mississippi Chancery Court recited a segment of the governing Mississippi statute and stated, without elaboration, that respondents, the children's natural father and his second wife, had met their burden of proof by "clear and convincing evidence." The Chancery Court, however, neither described the evidence nor otherwise revealed precisely why M. L. B. was decreed a stranger to her children. M. L. B. filed a timely appeal from the termination decree, but Mississippi law conditioned her right to appeal on prepayment of record preparation fees estimated at $2,352.36. Lacking funds to pay the fees, M. L. B. sought leave to appeal in forma pauperis. The Supreme Court of Mississippi denied her application on the ground that, under its precedent, there is no right to proceed in forma pauperis in civil appeals. Urging that the size of her pocketbook should not be dispositive when "an interest far more precious than any property right" is at stake, Santosky v. Kramer, 455 U. S. 745, 758-759, M. L. B. contends in this Court that a State may not,

consistent with the Due Process and Equal Protection Clauses of the Fourteenth Amendment, condition appeals from trial court decrees terminating parental rights on the affected parent's ability to pay record preparation fees.

[12] Held: Just as a State may not block an indigent petty offender's access to an appeal afforded others, see Mayer v. Chicago, 404 U. S. 189, 195-196, so Mississippi may not deny M. L. B., because of her poverty, appellate review of the sufficiency of the evidence on which the trial court based its parental termination decree. Pp. 5-24.

[13] (a) The foundation case in the relevant line of decisions is Griffin v. Illinois, 351 U. S. 12, in which the Court struck down an Illinois rule that effectively conditioned thoroughgoing appeals from criminal convictions on the defendant's procurement of a transcript of trial proceedings. The Illinois rule challenged in Griffin deprived most defendants lacking the means to pay for a transcript of any access to appellate review. Although the Federal Constitution guarantees no right to appellate review, id., at 18 (plurality opinion), once a State affords that right, Griffin held, the State may not "bolt the door to equal justice," id., at 24 (Frankfurter, J., concurring in judgment). The Griffin plurality drew support for its decision from the Due Process and Equal Protection Clauses, id., at 13, 18, while Justice Frankfurter emphasized and explained the decision's equal protection underpinning, id., at 23. Of prime relevance to the question presented by M. L. B., Griffin's principle has not been confined to cases in which imprisonment is at stake, but extends to appeals from convictions of petty offenses, involving conduct "quasi criminal" in nature. Mayer, 404 U. S., at 196, 197. In contrast, an indigent defendant's right to counsel at state expense does not extend to nonfelony trials if no term of imprisonment is actually imposed. Scott v. Illinois, 440 U. S. 367, 373-374. Pp. 5-8.

[14] (b) This Court has also recognized a narrow category of civil cases in which the State must provide access to its judicial processes without regard to a party's ability to pay court fees. See, e.g., Boddie v. Connecticut, 401 U. S. 371, 374 (divorce proceedings). Making clear, however, that a constitutional requirement to waive court fees in civil cases is the exception, not the general rule, the Court has refused to extend Griffin to the broad array of civil cases. See United States v. Kras, 409 U. S. 434, 445; Ortwein v. Schwab, 410 U. S. 656, 661 (per curiam). But the Court has consistently set apart from the mine run of civil cases those involving state controls or intrusions on family relationships. In that domain, to guard against undue official intrusion, the Court has examined closely and contextually the importance of the governmental interest advanced in defense of the intrusion. Pp. 8-12.

[15] (c) M. L. B.'s case, involving the State's authority to sever permanently a parent-child bond, demands the close consideration the Court has long required when a family association "of basic importance in our society" is at stake. Boddie, 401 U. S., at 376. The Court approaches M. L. B.'s petition mindful of the gravity of the sanction imposed on her and in light of two prior decisions most immediately in point: Lassiter v. Department of Social Servs. of Durham Cty., 452 U. S. 18 (appointment of counsel for indigent defendants in parental status termination proceedings is not routinely required by the Constitution, but should be determined on a case-by-case basis), and Santosky v. Kramer, 455 U. S. 745 ("clear and convincing" proof standard is constitutionally required in

parental termination proceedings). Although both Lassiter and Santosky yielded divided opinions, the Court was unanimously of the view that "the interest of parents in their relationship with their children is sufficiently fundamental to come within the finite class of liberty interests protected by the Fourteenth Amendment," Santosky, 455 U. S., at 774 (Rehnquist, J., dissenting), and that "[f]ew consequences of judicial action are so grave as the severance of natural family ties," id., at 787. Pp. 12-15.

[16] (d) Guided by Lassiter, Santosky, and other decisions acknowledging the primacy of the parent-child relationship, the Court agrees with M. L. B. that Mayer points to the disposition proper in this case: Her parental termination appeal must be treated as the Court has treated petty offense appeals, and Mississippi may not withhold the transcript she needs to gain review of the order ending her parental status. The Court's decisions concerning access to judicial processes, commencing with Griffin and running through Mayer, reflect both equal protection and due process concerns. See Ross v. Moffitt, 417 U. S. 600, 608-609. In these cases, ``[d]ue process and equal protection principles converge." Bearden v. Georgia, 461 U. S. 660, 665. A ``precise rationale" has not been composed, Ross, 417 U. S., at 608, because cases of this order ``cannot be resolved by resort to easy slogans or pigeonhole analysis," Bearden, 461 U. S., at 666. Nevertheless, ``[m]ost decisions in this area," the Court has recognized, ``res[t] on an equal protection framework," id., at 665, as M. L. B.'s plea heavily does, for due process does not independently require that the State provide a right to appeal. Placing this case within the framework established by the Court's past decisions in this area, the Court inspects the character and intensity of the individual interest at stake, on the one hand, and the State's justification for its exaction, on the other. See id., at 666-667.

[17] As in the case of the indigent petty offender charged in Mayer, the stakes for M. L. B. are large. Parental status termination is "irretrievabl[y] destructi[ve]" of the most fundamental family relationship. Santosky, 455 U. S., at 753. And the risk of error, Mississippi's experience shows, is considerable. Mississippi has, consistent with Santosky, adopted a "clear and convincing proof" standard for parental status termination cases, but the Chancellor's order in this case simply recites statutory language; it describes no evidence, and otherwise details no reasons for finding M. L. B. "clear[ly] and convincing[ly]" unfit to be a parent. Only a transcript can reveal the sufficiency, or insufficiency, of the evidence to support that stern judgment. Mississippi's countervailing interest in offsetting the costs of its court system is unimpressive when measured against the stakes for M. L. B. The record discloses that, in the tightly circumscribed category of parental status termination cases, appeals are few, and not likely to impose an undue burden on the State. Moreover, it would be anomalous to recognize a right to a transcript needed to appeal a misdemeanor conviction-though trial counsel may be flatly denied such a defendant-but hold, at the same time, that a transcript need not be prepared for M. L. B.-though were her defense sufficiently complex, state-paid counsel, as Lassiter instructs, would be designated for her. While the Court does not question the general rule, stated in Ortwein, 410 U. S., at 660, that fee requirements ordinarily are examined only for rationality, the Court's cases solidly establish two exceptions to that rule. The basic right to participate in political processes as voters and candidates cannot be limited to those who can pay for a license. See, e.g., Harper v. Virginia Bd. of Elections, 383 U. S. 663. Nor may access to judicial processes in cases criminal or "quasi criminal" in nature, Mayer, 404 U. S., at 196, turn on ability to pay. The Court places decrees forever terminating parental rights in the category of cases in

which the State may not ``bolt the door to equal justice." Griffin, 351 U. S., at 24 (Frankfurter, J., concurring in judgment). Pp. 15-21.

[18] (e) Contrary to respondents' contention, cases in which the Court has held that government need not provide funds so that people can exercise even fundamental rights, see, e.g., Lyng v. Automobile Workers, 485 U. S. 360, 363, n. 2, 370-374, are inapposite here. Complainants in those cases sought state aid to subsidize their privately initiated action or to alleviate the consequences of differences in economic circumstances that existed apart from state action. M. L. B.'s complaint is of a different order. She is endeavoring to defend against the State's destruction of her family bonds, and to resist the brand associated with a parental unfitness adjudication. Like a defendant resisting criminal conviction, she seeks to be spared from the State's devastatingly adverse action. That is the very reason this Court has paired her case with Mayer, not with Ortwein or Kras. Also rejected is respondents' suggestion that Washington v. Davis, 426 U. S. 229, 242, effectively overruled the Griffin line of cases in 1976 by rejecting the notion "that a law, neutral on its face and serving ends otherwise within the power of government to pursue, is invalid under the Equal Protection Clause simply because it may affect a greater proportion of one race than of another." That this Court has not so conceived the meaning and effect of Washington v. Davis is demonstrated by Bearden, 461 U. S., at 664-665, in which the Court adhered in 1983 to "Griffin's principle of `equal justice.' " The Court recognized in Griffin that ``a law nondiscriminatory on its face may be grossly discriminatory in operation," 351 U. S., at 17, n. 11, and explained in Williams v. Illinois, 399 U. S. 235, 242, that an Illinois statute it found unconstitutional in that case ``in operative effect expose[d] only indigents to the risk of imprisonment beyond the statutory maximum." Like the sanction in Williams, the Mississippi prescription here at issue is not merely disproportionate in impact, but wholly contingent on one's ability to pay, thereby ``visit[ing] different consequences on two categories of persons." Ibid. A failure rigidly to restrict Griffin to cases typed "criminal" will not result in the opening of judicial floodgates, as respondents urge. This Court has repeatedly distinguished parental status termination decrees from mine run civil actions on the basis of the unique deprivation termination decrees work: permanent destruction of all legal recognition of the parental relationship. Lassiter and Santosky have not served as precedent in other areas, and the Court is satisfied that the label "civil" should not entice it to leave undisturbed the Mississippi courts' disposition of this case. Cf. In re Gault, 387 U. S., at 50. Pp. 21-24.

[19] (f) Thus, Mississippi may not withhold from M. L. B. "a `record of sufficient completeness' to permit proper [appellate] consideration of [her] claims." Mayer, supra, at 198. P. 24.

[20] Reversed and remanded.

[21] Ginsburg, J., delivered the opinion of the Court, in which Stevens, O'Connor, Souter, and Breyer, JJ., joined. Kennedy, J., filed an opinion concurring in the judgment. Rehnquist, C. J., filed a dissenting opinion. Thomas, J., filed a dissenting opinion, in which Scalia, J., joined, and in which Rehnquist, C. J., joined, except as to Part II.

[22] Justice Ginsburg

[23] On Writ of Certiorari to the Supreme Court of Mississippi

[24] By order of a Mississippi Chancery Court, petitioner M. L. B.'s parental rights to her two minor children were forever terminated. M. L. B. sought to appeal from the termination decree, but Mississippi required that she pay in advance record preparation fees estimated at $2,352.36. Because M. L. B. lacked funds to pay the fees, her appeal was dismissed.

[25] Urging that the size of her pocketbook should not be dispositive when "an interest far more precious than any property right" is at stake, Santosky v. Kramer, 455 U. S. 745, 758-759 (1982), M. L. B. tenders this question, which we agreed to hear and decide: May a State, consistent with the Due Process and Equal Protection Clauses of the Fourteenth Amendment, condition appeals from trial court decrees terminating parental rights on the affected parent's ability to pay record preparation fees? We hold that, just as a State may not block an indigent petty offender's access to an appeal afforded others, see Mayer v. Chicago, 404 U. S. 189, 195-196 (1971), so Mississippi may not deny M. L. B., because of her poverty, appellate review of the sufficiency of the evidence on which the trial court found her unfit to remain a parent.

[26] I.

[27] Petitioner M. L. B. and respondent S. L. J. are, respectively, the biological mother and father of two children, a boy born in April 1985, and a girl born in February 1987. In June 1992, after a marriage that endured nearly eight years, M. L. B. and S. L. J. were divorced. The children remained in their father's custody, as M. L. B. and S. L. J. had agreed at the time of the divorce.

[28] S. L. J. married respondent J. P. J. in September 1992. In November of the following year, S. L. J. and J. P. J. filed suit in Chancery Court in Mississippi, seeking to terminate the parental rights of M. L. B. and to gain court approval for adoption of the children by their stepmother, J. P. J. The complaint alleged that M. L. B. had not maintained reasonable visitation and was in arrears on child support payments. M. L. B. counterclaimed, seeking primary custody of both children and contending that S. L. J. had not permitted her reasonable visitation, despite a provision in the divorce decree that he do so.

[29] After taking evidence on August 18, November 2, and December 12, 1994, the Chancellor, in a decree filed December 14, 1994, terminated all parental rights of the natural mother, approved the adoption, and ordered that J. P. J., the adopting parent, be shown as the mother of the children on their birth certificates. Twice reciting a segment of the governing Mississippi statute, Miss. Code Ann. Section(s) 93-15-103(3)(e) (1994), the Chancellor declared that there had been a "substantial erosion of the relationship between the natural mother, [M. L. B.], and the minor children," which had been caused "at least in part by [M.