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## Lacera v. Department of Children, Youth, and Families, 272 A.3d 1064 (R.I. 2022)

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**Family Law.** *Lacera v. Department of Children, Youth, and Families*, 272 A.3d 1064 (R.I. 2022). A grandparent’s legal status vis-à-vis a grandchild stems solely from their own child’s legal status vis-à-vis the grandchild. After the termination of parental rights, a grandparent has no legally protectable interests because when parental rights are terminated, grandparental rights are also extinguished.

#### FACTS AND TRAVEL

James Lacera (Mr. Lacera) appealed a final order of the Family Court.<sup>1</sup> The action stemmed from an investigation by the defendant, the Rhode Island Department of Children, Youth, and Families (DCYF), into the parental abuse and neglect of ML,<sup>2</sup> Mr. Lacera’s biological grandchild.<sup>3</sup>

Approximately three years prior, DCYF placed ML with a non-relative foster family.<sup>4</sup> Mr. Lacera fought to have DCYF place ML with him through formal and informal efforts, including appearing in person with legal representation before the Family Court at a bench conference.<sup>5</sup> Nonetheless, DCYF never placed ML with Mr. Lacera and they also never formally declared that Mr. Lacera was not a fit and willing relative for the purpose of ML’s placement, despite statutory requirements that they do so for any relatives not residing with the child’s parents.<sup>6</sup>

The Family Court terminated Mr. Lacera’s son’s parental rights on October 7, 2020.<sup>7</sup> DCYF did not consider Mr. Lacera as a

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1. *Lacera v. Dep’t of Child., Youth, and Fam.*, 272 A.3d 1064, 1065 (R.I. 2022).

2. The Court refers to the child as “ML” to protect their privacy. *Id.* at 1066.

3. *Id.*

4. *Id.* at 1066; *see also id.* at 1068.

5. *Id.* at 1066.

6. *Id.*

7. *Id.*

candidate to adopt ML.<sup>8</sup> In response, Mr. Lacera filed suit, seeking a declaratory judgment about his custody rights and a preliminary injunction to stay any future adoption proceedings.<sup>9</sup>

On October 30, 2020, DCYF moved to dismiss Mr. Lacera's action and oppose his motion for a preliminary injunction.<sup>10</sup> A hearing was initially scheduled for February 2021.<sup>11</sup> But, on November 20, 2020, Mr. Lacera moved to expedite that hearing on an emergency basis, alleging that ML's foster family would be adopting the child on December 4, 2020.<sup>12</sup> The trial justice denied the motion to expedite because ML's adoption was not scheduled for December 4, 2020, and set the hearing for the declaratory-judgment for February 5, 2021.<sup>13</sup> Instead, ML's foster family finalized their adoption of ML on December 9, 2020.<sup>14</sup>

To further frustrate the matter, Mr. Lacera was kept out of court until June 18, 2021 because the trial justice twice pushed back the hearing date.<sup>15</sup> The trial justice granted DCYF's motion to dismiss because by that time the trial justice concluded that Mr. Lacera no longer had legal standing.<sup>16</sup> Most significantly, the trial court held that if Mr. Lacera were permitted to continue, the result would be tantamount to reversing ML's adoption; indeed, the trial justice stated they did not want to "reach behind" a finalized adoption.<sup>17</sup>

#### ANALYSIS AND HOLDING

The Court upheld the Family Court's decision, agreeing that Mr. Lacera lacked standing after the termination of his son's parental rights.<sup>18</sup> Due to his lack of standing, the Court denied Mr. Lacera's appeal. Justice Long, writing for the Court, affirmed the Family Court's decision because: (1) A trial justice must resolve issues

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8. *Id.*

9. *Id.*

10. *Id.* at 1067.

11. *Id.*

12. *Id.*

13. *Id.*

14. *Id.*

15. *Id.*

16. *Id.*

17. *Id.*

18. *Id.* at 1068.

of justiciability in declaratory-judgment actions,<sup>19</sup> and (2) All rights Mr. Lacera had as a relative of ML were divested when Mr. Lacera's son's parental rights were terminated.<sup>20</sup>

Mr. Lacera argued that he had standing under Rhode Island General Laws 1956 section 14-1-27(c)<sup>21</sup> because as a fit and willing relative he should have had statutory priority when it came to ML's placement and adoption.<sup>22</sup> The statute provides that "DCYF shall have the duty to investigate the possibility of placing the child or children with a fit and willing relative not residing with the parents."<sup>23</sup> Mr. Lacera maintained that his statutory rights were violated because DCYF never considered or evaluated him as a fit and willing relative, never placed ML with him, and never gave him priority status for ML's adoption.<sup>24</sup>

The Court acknowledged that section 14-1-27 grants statutory rights to relatives like Mr. Lacera, but held that those rights were divested when Mr. Lacera's son's parental rights were terminated.<sup>25</sup> Therefore, the Court was constrained in granting him standing as a relative.<sup>26</sup> This severe constraint allowed ML's adoption, without even a mere acknowledgement from DCYF that it wronged Mr. Lacera.

The Court emphasized that the termination of parental rights is "drastic and irreversible,"<sup>27</sup> in addition to being far-reaching.<sup>28</sup> The termination of parental rights is conclusive upon the legal rights of "all who might claim by, through, or under"<sup>29</sup> the parent whose rights were terminated.<sup>30</sup> Therefore, once Mr. Lacera's son was no longer a legal parent to ML, Mr. Lacera no longer had any

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19. *Id.* at 1067.

20. *Id.* at 1068.

21. 14 R.I. GEN. LAWS § 14-1-27(c).

22. *Lacera*, 272 A.3d at 1068.

23. 14 R.I. GEN. LAWS § 14-1-27(c).

24. *Lacera.*, 272 A.3d at 1066.

25. *Id.* at 1068.

26. *Id.*

27. *Id.* (quoting *In re Manuel P.*, 252 A.3d 1211, 1218 (R.I. 2021) (quoting *In re Rylee A.*, 233 A.3d 1040, 1051) (R.I. 2020)).

28. *Lacera*, 272 A.3d at 1068.

29. *Id.* at 1069 (quoting *In re Nicholas*, 457 A.2d 1359, 1360 (R.I. 1983)).

30. *Lacera*, 272 A.3d at 1069.

legally recognized or protectable interest and, accordingly, lacked standing.<sup>31</sup>

Despite denying Mr. Lacera's appeal, Justice Long wrote that the Court was troubled by DCYF's argument that the adoption made Mr. Lacera's claim moot, finding it disingenuous and insincere given that it was part of the basis for his action.<sup>32</sup> The Court cautioned DCYF that "its work implicates and may even irreparably extinguish solemn constitutional and statutory rights, and all agency actions inside and outside the courts should reflect the grave nature of the department's task."<sup>33</sup>

#### COMMENTARY

Mr. Lacera's statutory rights as a grandfather to ML were extinguished when the state extinguished his son's fundamental constitutional right to parent. Two branches of the state's government—the judiciary and the executive (via DCYF)—failed to protect the rights granted to Mr. Lacera by the legislative branch in Rhode Island.

The judicial branch failed to protect Mr. Lacera's rights when the Family Court denied his motion to expedite. The fact he provided an incorrect date of adoption was immaterial because the mistake was by a mere five days. Moreover, he was not given time to amend his complaint to fix the error. Mr. Lacera acted quickly to protect his legal relationship with ML, but the trial justice focused on a minor date detail rather than his broader statutory rights—not to mention the relationship that would be permanently altered between Mr. Lacera and ML. Moreover, ML's adoption was central to justiciability, particularly regarding mootness, though the Court focused primarily on the termination of ML's father's parental rights as it related to Mr. Lacera's standing in this action.<sup>34</sup> Regardless of Mr. Lacera's fitness, once ML was adopted it was no longer in the best interests of the child to alter that arrangement.

The executive branch failed to protect Mr. Lacera's statutory rights when DCYF failed to investigate the possibility of placing ML with him, when they never assessed the appropriateness of

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31. *Id.*

32. *Id.*

33. *Id.*

34. *Id.*

placing ML with him, and when they never determined whether he was a fit and proper person for relative placement. Justice Long chastised DCYF, but the Court did not explicitly say that DCYF violated Mr. Lacera's statutory rights at any stage of the proceedings, particularly before his son's parental rights were terminated. DCYF's statutory violations led to irreversible legal consequences for ML and Mr. Lacera's relationship, which led to a troubling result concerning a grandparent's right, or any relative's right, for consideration in the placement and adoption processes in Rhode Island.

The Court notes two decision nodes in this case, which indicate that a different outcome for grandparental and relative rights could be possible in the future. First, Justice Long makes a clear distinction between Mr. Lacera appearing at a bench conference with legal representation and entering an appearance on the record in Family Court or seeking an appealable denial from the Family Court.<sup>35</sup> If anything appealable had appeared on the record, the outcome of Mr. Lacera's case may have been different, suggesting that any relative pursuing their statutory rights in Rhode Island should get a denial on the record in Family Court.

Second, the Court distinguishes this case from *Puleo v. Forgue*,<sup>36</sup> in which grandparents established standing vis-à-vis a grandchild because they had an order of visitation before their grandchild was adopted.<sup>37</sup> There, unlike here, the grandparents' child died.<sup>38</sup> But the Court highlighted the grandparents' pre-adoption grant of visitation, thus establishing the grandparents' legal relationship to their grandchild as separate from the legal status of their own child.<sup>39</sup> While here Mr. Lacera did not have a pre-existing visitation order, the Court's inclusion of this case suggests that any legal relative who wants to receive placement of a child in the future should take the step of seeking an order of visitation to preserve standing with respect to any future adoption.

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35. *Id.* at 1066.

36. *Puleo v. Forgue*, 610 A.2d 124, 125 (R.I. 1992).

37. *Lacera.*, 272 A.3d at 1069.

38. *Puleo v. Forgue*, 634 A.2d 857, 857 (R.I. 1993).

39. *Lacera.*, 272 A.3d at 1069.

## CONCLUSION

The Rhode Island Supreme Court held that a grandparent could not claim legally cognizable or protectable interests vis-à-vis a grandchild after their own child's parental rights are terminated. The Court determined that the drastic and irreversible act of terminating parental rights extends to the claims of all relatives whose relationship to the child exists by and through the legal status of the parent whose rights were extinguished.

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