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Recent Developments: Beckman v. Boggs: Adoption of a Child with the Consent of a Natural Parent Does Not Terminate the Right of That Parent's Mother or Father to Petition for Visitation with the Child

Mark L. Miller

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Beckman v. Boggs:***ADOPTION OF
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In *Beckman v. Boggs*, 337 Md. 688, 655 A.2d 901 (1995), the Court of Appeals of Maryland held that the adoption of a child with the consent of a natural parent does not terminate the right of that parent's mother or father to petition for visitation with the child. Rather, grandparental visitation is dependent on what will serve the best interests of the child. The court's ruling will insure that decisions concerning grandparental visitation in Maryland focus solely on the child, rather than the arbitrary legal status of the natural parents.

Audriana Boggs, born September 11, 1991, was the only child of Kenny and Kathie Boggs. Approximately four months after Audriana's birth, the couple separated and, subsequently, divorced. In early 1992, Kathie and Audriana moved in with Kathie's mother and step-father (the "Beckmans"). During the first month of Audriana's life, Kenny's parents (the "Boggses") were permitted to see her on several occasions. In addition, the Boggses alleged that Kathie left Audriana with them on several occasions after Kathie moved in with the Beckmans. However, in October of 1992, Kathie was diagnosed with leukemia, and any further visitation was discouraged by the Beckmans. After Kathie passed away in August of 1993, the Beckmans continued to deny the Boggses any visitation with their granddaughter. The Beckmans filed a petition to adopt Audriana on October 19, 1993, with the consent of Kenny. Kenny consented, in part, because he did

not want Audriana to be subjected to the same negative atmosphere he felt he had been exposed to while growing up. The adoption was granted on November 12, 1993. In the meantime, the Boggses had filed a petition for visitation on October 26, 1993.

The Circuit Court for Allegany County granted visitation rights to the Boggses. The Beckmans appealed. Prior to intermediate appellate review by the court of special appeals, the court of appeals granted certiorari.

The court began its analysis by setting forth the conflicting statutes in issue. *Beckman*, 337 Md. at 691-93, 655 A.2d at 902-03. Section 5-308 of the Family Law Article states "after a decree of adoption is entered . . . each living natural parent of the individual adopted is . . . divested of all parental rights as to the individual adopted." *Id.* at 691, 655 A.2d at 902 (quoting Md. Code Ann., Fam. Law § 5-308 (1991)). Under section 9-102 of the Family Law Article, "[a]n equity court may: (1) consider a petition for reasonable visitation of a grandchild by a grandparent; and (2) if the court finds it to be in the best interests of the child, grant visitation rights to the grandparent." *Id.* at 692, 655 A.2d at 903 (quoting Md. Code Ann., Fam. Law § 9-102 (1991 & Supp. 1994)).

The court then turned to the Beckmans' argument that the trial court had erred by ruling that the Boggses had stand-

ing to petition for visitation under section 9-102. *Id.* at 696-97, 655 A.2d at 905. The Beckmans asserted that once the adoption took place, in accordance with section 5-308, Kenny was no longer Audriana's legal father. *Id.* at 697-98, 655 A.2d at 906. Therefore, the Boggsses could no longer be considered her grandparents. *Id.* The Boggsses disagreed, noting that section 5-308 only addresses the rights of the adoptive family and natural parents, not grandparents. *Id.* at 699, 655 A.2d at 907.

The court rejected the Beckmans' argument that the Boggsses had no standing to petition for visitation under section 9-102. *Id.* at 700-01, 655 A.2d at 907. The court agreed that once Audriana had been adopted, section 5-308 had dispossessed Kenny of any legal rights with regard to her. *Id.* at 700, 655 A.2d at 907. However, this did not affect the Boggsses' status as grandparents, and did not impair their right to petition for visitation under section 9-102. *Id.* at 700-01, 655 A.2d at 907. The court noted that there is nothing "in section 9-102 to indicate in any way that a grandparent's right to petition for visitation with a child stems from a corresponding right enjoyed by the parent.

In other words, the visitation rights of a grandparent are not derivative." *Id.* at 701, 655 A.2d at 907 (quoting *Fairbanks v. McCarter*, 330 Md. 39, 48, 622 A.2d 121, 126 (1993)).

The court went on to stress that any decision concerning grandparental visitation must be based solely on the best interests of the child, as required by section 9-102. *Id.* at 701, 655 A.2d at 907-08. In this context, the court chose to recognize the legislature's specific concerns about the role a child's natural family should play once the child is adopted. *Id.* at 701, 655 A.2d at 908. First, as set forth in section 5-303, the purposes of the adoption statutes are to establish new familial ties and to protect adoptive parents "from . . . future disturbance[s] of their relationship with [their new] child." *Id.* at 701-02, 655 A.2d at 908 (quoting Md. Code Ann., Fam. Law § 5-303 (1991)). In particular, the court noted that interference by members of the natural family may cause instability and lead to a division of loyalty. *Id.* at 702, 655 A.2d at 908. Furthermore, adoptive parents have a strong interest in deciding with whom their adoptive children associate. *Id.* Finally, the court recognized the legislature's preference for confidentiality in adoptions. *Id.* (cit-

ing Md. Code Ann., Fam. Law § 5-329 (1991 & Supp. 1994)). While none of these factors impair a grandparent's right to petition for visitation under section 9-102, the court directed that they should be carefully weighed in any evaluation of a child's best interests. *Id.* at 701, 655 A.2d at 908. After a review of the record, the court of appeals upheld the trial court's determination that visitation would be in Audriana's best interests. *Id.* at 704, 655 A.2d at 909.

The ruling in *Beckman v. Boggs* reflects a simple policy decision to base grandparental visitation rights on the best interests of the child, rather than the strict legal status of the natural parents. Furthermore, the court's decision adequately safeguards the policies and protections that the adoption statutes were meant to address. The court has stressed that these factors must be addressed before any visitation can be granted. At a time when America is questioning the validity of the stripped-down family structure, the court of appeals has taken a step toward insuring that adopted children in this state are not arbitrarily denied the benefits that an extended family can provide.

-Mark L. Miller