

SUPREME COURT PENDING CASE

The following appeal is assigned for argument in the Supreme Court on February 14, 2022

IN RE AMIAS I. et al., SC 20671

Child Protection Session at Willimantic

Child Protection; Whether Trial Court Denied Constitutional and Statutory Rights of Respondent Mother’s Minor Children to Conflict Free Counsel by Failing to Inquire into Attorney for Minor Children’s Concurrent Conflict of Interest Arising from Children’s Differing Positions on Termination of Parental Rights. The petitioner, the Commissioner of the Department of Children and Families, filed petitions to terminate the parental rights of the respondent mother in her three minor children. Attorney Dana Clark was appointed as the attorney for all three minor children. During the consolidated trial on the three petitions, Attorney Clark indicated that the two older children wanted to be reunited with the respondent while the youngest child wanted to be adopted by her foster family. There was additional evidence and testimony presented at trial regarding the contrasting positions of the minor children on the termination of the respondent’s parental rights. The trial court thereafter issued a memorandum of decision terminating the respondent’s parental rights in the three minor children. The respondent filed an appeal from the trial court’s judgment in the Appellate Court, and the appeal was subsequently transferred to the Supreme Court. Relying on *In re Christina M.*, 280 Conn. 474 (2006), which held that the parents in that appeal had standing to assert a claim that their children were denied their constitutional right to conflict free representation, the respondent in this appeal claims that the trial court violated the minor children’s federal and state due process rights to conflict free counsel by failing to inquire into Attorney Clark’s concurrent conflict of interest. The respondent argues that minor children have a right to counsel in termination of parental rights proceedings under both the federal and state constitutions, that Attorney Clark had a concurrent conflict of interest because the minor children sought different outcomes, and that the trial court’s failure to inquire into Attorney Clark’s concurrent conflict of interest resulted in structural error that requires reversal. The respondent also claims that Attorney Clark’s concurrent conflict of interest resulted in a violation of the children’s statutory right to conflict free counsel under General Statutes § 46b-129a, which provides in relevant part that “[a] child shall be represented by counsel knowledgeable about representing such children” in juvenile matters and

that “the primary role of any counsel for the child shall be to advocate for the child in accordance with the Rules of Professional Conduct.” The respondent argues that her unpreserved constitutional claims are reviewable under *State v. Golding*, 213 Conn. 233 (1989), while her unpreserved statutory claim is subject to review and reversal under the plain error doctrine. The petitioner in turns contends that the respondent’s claims are unreviewable. It further contends as to the constitutional claims that there was no conflict of interest and that the children did not have a federal or state constitutional right to counsel in the termination of parental rights proceeding. The petitioner additionally contends as to the statutory claim that, even if it is reviewable, it is without merit and that it does not warrant reversal under the plain error doctrine.

The summary appearing here is not intended to represent a comprehensive statement of the facts of the case, nor an exhaustive inventory of issues raised on appeal. This summary is prepared by the Staff Attorneys’ Office for the convenience of the bar. It in no way indicates the Supreme Court’s view of the factual or legal aspects of the appeal.

*Jessie Opinion
Chief Staff Attorney*
