PADILLA V. CLANCEY, 1930-NMSC-043, 35 N.M. 9, 288 P. 1048 (S. Ct. 1930)

PADILLA et al.
vs.
CLANCEY et al.

No. 3453

SUPREME COURT OF NEW MEXICO

1930-NMSC-043, 35 N.M. 9, 288 P. 1048

April 30, 1930

Appeal from District Court, Guadalupe County; Armijo, Judge.

Habeas corpus proceeding by Celina Corina Padilla, a minor, and A. J. Padilla and Leticia G. de Padilla, her father and mother, opposed by Juan J. Clancey and another. From a decree dismissing the proceeding, petitioners appeal.

COUNSEL

F. Faircloth, of Santa Rosa, for appellants.

E. R. Wright, of Santa Fe, and W. P. Harris, of Vaughn, for appellees.

JUDGES

Bickley, C. J. and Catron and Simms, JJ., concur. Parker and Watson, JJ., did not participate.

OPINION

*{*10}* **{1}** OPINION OF THE COURT Petitioners appeal from a decree dismissing habeas corpus proceeding brought to determine the right to the care and custody of a minor child.

{2} The district court, in substance, found and concluded that Celina Corina Padilla, born April 23, 1917, is the daughter of petitioners A. J. Padilla and Leticia G. de Padilla; that said minor has been living with respondents since August, 1921, save and except during the summer months prior to 1927, when she lived with her parents; that at the time the said minor started living with respondents, the parents of said minor told respondents that they would never take the child away from them as long as said child wanted to stay with them; that the said respondents have taken good and proper care of said minor during all the time they have had the child under their control and have

properly educated her; that said respondents have become greatly attached to said minor and are well able to properly care for, rear, and educate her; that the interests of said minor will be better served and protected by having said minor remain with respondents. Upon said findings and conclusions, the court dismissed the writ of habeas corpus and ordered that the minor remain with the respondents.

{3} The evidence is not before us, the bill of exceptions having been stricken, and there are no objections to the findings, conclusions, and judgment other than a general exception, which we have repeatedly held is insufficient. Under the circumstances, judgment of the district court will be affirmed under the authority of Pra. v. Gherardini, 34 N.M. 587, *{*11}* 286 P. 828, decided by this court March 17, 1930, the cause remanded, and it is so ordered.