

SUPREME COURT OF VERMONT

In re D.S. and W.S., Juveniles

2016 VT 130 (2016) · No. 2016-182 · Decided December 16, 2016

SUMMARY

The Vermont Supreme Court reversed judgments terminating both parents' parental rights to D.S. and W.S. The court held that the finding of maternal stagnation was premature because reunification services were curtailed before the case-plan timeframe and while the mother was showing progress. It also held that the findings and evidence were insufficient to establish that termination of the father's parental rights was in the children's best interests.

CASE DETAILS

COURT	Supreme Court of Vermont
WRITING FOR THE COURT	Dooley, J.; Reiber, C.J.; Skoglund, J.; Robinson, J.; Teachout, Supr. J., specially assigned
JURISDICTION	Vermont
DECIDED	December 16, 2016
DOCKET	2016-182
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Mother and father separately appealed a family court judgment terminating their parental rights to D.S. and W.S.
STANDARD OF REVIEW	The Supreme Court reviews findings supporting changed circumstances for clear error and conclusions for reasonable support in the findings. Termination findings must be supported by clear and convincing evidence.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Mother, Father v. State, Juveniles

TOPICS

termination of parental rights parental rights family law procedure appellate procedure due process

PRACTICE AREAS

family law termination of parental rights constitutional law appellate procedure

QUESTIONS PRESENTED

1. Whether the family court properly found that mother's ability to parent had stagnated when DCF shifted prematurely to an adoption-only goal and discontinued or altered services before the reunification timeframe in the case plan.
2. Whether the evidence clearly and convincingly established that termination of father's parental rights was in the children's best interests, including whether the family court adequately considered father individually.
3. Whether father's remaining due-process claims required reversal.

HOLDINGS

1. The finding that mother's failure to progress amounted to stagnation was unsupported because DCF prematurely shifted from a concurrent reunification-and-adoption goal to an adoption-only goal before the timeframe contemplated in the approved case plan, while the evidence showed recent progress and service or staffing changes that inhibited further progress.
2. The family court's findings were insufficient to establish by clear and convincing evidence that termination of father's parental rights was in the children's best interests.
3. The court did not reach father's remaining due-process claims because reversal on the other grounds made them unnecessary to resolve.

KEY QUOTATIONS

“In light of these findings, the conclusion is inescapable that DCF’s decision to shift from a concurrent goal of reunification/adoption to adoption-only—several months before the timeframe contemplated in the approved case plan—was premature.” (at 6)

“Without a showing of father’s failure to successfully complete a plan of services designed to maximize his opportunity to safely parent the children and resume parental responsibilities within a reasonable time, we cannot conclude that the evidence was sufficient to demonstrate that a termination of his parental rights was in the best interests of the children.” (at 9)

FACTUAL BACKGROUND

DCF intervened after D.S., then approximately two and a half years old, was found unsupervised near the family's residence and W.S., an infant, was observed in an unsafe sleep environment. The parents violated a safety plan, resulting in an emergency care order placing the children with their paternal grandparents. Although both parents participated in services, DCF changed the case-plan goal from reunification and adoption to adoption only before the projected reunification date, and subsequent service and staffing changes limited the parents' opportunity to demonstrate further progress. The family court found that mother's progress had stagnated and that father did not want to parent independently, and terminated both parents' rights.

PROCEDURAL HISTORY

The children were placed with their paternal grandparents after DCF received reports concerning inadequate supervision and an unsafe infant sleep environment. The parents stipulated that the children were in need of care

or supervision, and the family court adopted a disposition plan with concurrent goals of reunification and adoption. After DCF shifted to an adoption-only goal and the State filed termination petitions, the family court terminated both parents' rights following a three-day evidentiary hearing. The Vermont Supreme Court reversed as to both parents and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for further proceedings consistent with the decision, including reconsideration of whether the statutory grounds and best-interests criteria support termination of either parent's parental rights.

CASES CITED

- In re S.W., 2003 VT 90, ¶ 4, 176 Vt. 517, 833 A.2d 879 (mem.)
- In re D.M., 2004 VT 41, ¶ 5, 176 Vt. 639, 852 A.2d 588 (mem.)
- In re S.R., 157 Vt. 417, 421-22, 599 A.2d 364, 367 (1991)
- In re B.S., 163 Vt. 445, 454, 659 A.2d 1137, 1143 (1995)
- In re H.A., 153 Vt. 504, 513, 572 A.2d 884, 889 (1990)