

SUPREME COURT OF APPEALS OF WEST VIRGINIA

In re C.C. and M.C.

No. 16-0546 (W. Va. Nov. 14, 2016) · No. No. 16-0546 · Decided November 14, 2016

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the termination of petitioner mother L.C.'s parental rights to C.C. and M.C. The Court held that the circuit court did not err in finding no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected in the near future, based on petitioner's incomplete compliance with improvement-period requirements and positive drug screens.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Menis E. Ketchum; Justice Robin Jean Davis; Justice Brent D. Benjamin; Justice Margaret L. Workman; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	November 14, 2016
DOCKET	No. 16-0546
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner mother appealed an order of the Circuit Court of Summers County terminating her parental rights in an abuse and neglect proceeding.
STANDARD OF REVIEW	Conclusions of law are reviewed de novo. Findings of fact in an abuse and neglect case are reviewed for clear error and will not be set aside unless the reviewing court is left with a definite and firm conviction that a mistake has been made. The circuit court's credibility determinations are given deference.
PRECEDENTIAL VALUE	Memorandum decision; no substantial question of law and no prejudicial error identified under Rule 21.
PARTIES	L.C., petitioner mother v. West Virginia Department of Health and Human Resources, C.C. and M.C., by guardian ad litem

TOPICS

termination of parental rights

parental rights

family law procedure

appellate procedure

standard of review

PRACTICE AREAS

family law

juvenile law

child welfare

QUESTIONS PRESENTED

1. Whether the circuit court clearly erred in finding that there was no reasonable likelihood that petitioner could substantially correct the conditions of abuse and neglect in the near future.
2. Whether termination of petitioner's parental rights was authorized and necessary for the children's welfare based on her failure to substantially follow through with rehabilitative efforts.

HOLDINGS

1. The circuit court did not clearly err in finding no reasonable likelihood that petitioner could substantially correct the conditions of abuse and neglect in the near future.
2. Termination of petitioner's parental rights was proper because the statutory conditions for termination were met and the children's welfare required termination.

KEY QUOTATIONS

“West Virginia Code § 49-4-604(c)(3) provides that no reasonable likelihood that the conditions of abuse or neglect can be substantially corrected exists when “[t]he abusing parent . . . ha[s] not responded to or followed through with a reasonable family case plan or other rehabilitative efforts[.]”” (at 3)

“Termination . . . may be employed without the use of intervening less restrictive alternatives when it is found that there is no reasonable likelihood . . . that conditions of neglect or abuse can be substantially corrected.” (at 3)

FACTUAL BACKGROUND

The children were exposed to serious abuse, neglect, and substance-abuse conditions in petitioner's home, including physical and verbal abuse by petitioner's boyfriend and aunt and petitioner's drug use in the children's presence. Petitioner stipulated to the abuse and neglect allegations and received multiple improvement periods. Although she completed some requirements, she failed to comply consistently with drug screening, tested positive for opiates on two of her last three screens, missed classes, and failed to follow psychological-evaluation recommendations for therapy, substance-abuse education, and psychiatric care.

PROCEDURAL HISTORY

The DHHR filed an abuse and neglect petition in January 2015. Petitioner stipulated to the allegations at the adjudicatory hearing and was adjudicated an abusing parent. The circuit court granted successive post-adjudicatory and dispositional improvement periods, but after a final dispositional hearing found no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected in the near future and terminated petitioner's parental rights. The Supreme Court of Appeals affirmed by memorandum decision.

DISPOSITION

affirmed

CASES CITED

- In re K.H., 235 W. Va. 254, 773 S.E.2d 20 (2015)
- Melinda H. v. William R. II, 230 W. Va. 731, 742 S.E.2d 419 (2013)
- State v. Brandon B., 218 W. Va. 324, 624 S.E.2d 761 (2005)
- State v. Edward Charles L., 183 W. Va. 641, 398 S.E.2d 123 (1990)
- In Interest of Tiffany Marie S., 196 W. Va. 223, 470 S.E.2d 177 (1996)
- In re Cecil T., 228 W. Va. 89, 717 S.E.2d 873 (2011)
- In re Emily, 208 W. Va. 325, 540 S.E.2d 542 (2000)
- In re Travis W., 206 W. Va. 478, 525 S.E.2d 669 (1999)
- Michael D.C. v. Wanda L.C., 201 W. Va. 381, 497 S.E.2d 531 (1997)
- In re Katie S., 198 W. Va. 79, 479 S.E.2d 589 (1996)