

SUPREME COURT OF APPEALS OF WEST VIRGINIA

In re T.S. & S.A.

In re T.S. & S.A. · No. 13-0304 · Decided October 1, 2013

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed a circuit court order terminating the mother's parental rights to T.S. and S.A. The court held that the record supported the findings that a family case plan had been developed, the mother failed to follow through with rehabilitative services, and there was no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Brent D. Benjamin; Justice Robin Jean Davis; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	October 1, 2013
DOCKET	13-0304
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner Mother appealed the Kanawha County Circuit Court's order terminating her parental rights in an abuse and neglect proceeding.
STANDARD OF REVIEW	Conclusions of law are reviewed de novo. In a fact-based abuse and neglect case tried without a jury, factual findings 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.
PRECEDENTIAL VALUE	Published memorandum decision; precedential treatment is not otherwise specified in the opinion text.
PARTIES	Petitioner Mother v. West Virginia Department of Health and Human Resources, Guardian ad litem for the children

TOPICS

- termination of parental rights
- parental rights
- domestic violence
- family law procedure
- appellate procedure

PRACTICE AREAS

family law

juvenile law

parental rights

termination of parental rights

QUESTIONS PRESENTED

1. Whether the circuit court erred in terminating Petitioner Mother's parental rights because the DHHR allegedly failed to establish a family case plan or determine the services necessary for reunification.
2. Whether the evidence was sufficient to establish that there was no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected and that termination of parental rights was necessary for the children's welfare.

HOLDINGS

1. The failure of the parties to sign the family case plan did not warrant reversal because the record showed that a plan had been developed, filed, approved by the circuit court, and sufficiently identified the services and logical steps necessary to address the neglect conditions.
2. The circuit court properly terminated Petitioner Mother's parental rights because sufficient evidence established that there was no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected in the near future and that termination was necessary for the children's welfare.

KEY QUOTATIONS

“The purpose of the family case plan . . . is to clearly set forth an organized, realistic method of identifying family problems and the logical steps to be used in resolving or lessening these problems.” (2)

“Although conclusions of law reached by a circuit court are subject to de novo review, when an action, such as an abuse and neglect case, is tried upon the facts without a jury, the circuit court shall make a determination based upon the evidence and shall make findings of fact and conclusions of law as to whether such child is abused or neglected.” (2)

FACTUAL BACKGROUND

The DHHR alleged ongoing domestic violence, illegal drug abuse, and failures by Petitioner Mother to provide the children with necessary food, clothing, supervision, and housing. S.A. was born with marijuana, benzodiazepine, and Lortab in her system. Although the circuit court ordered services including visitation, counseling, evaluations, and drug screening, Petitioner Mother did not follow the recommendations of her psychological evaluation, did not consistently attend parenting classes, and did not participate in or failed random drug screens.

PROCEDURAL HISTORY

The DHHR filed an abuse and neglect petition and sought temporary emergency custody in September 2011. The circuit court removed the children, ordered services, adjudicated the children neglected and Petitioner Mother an abusing parent, and terminated her parental rights by order entered March 13, 2013. The Supreme Court of Appeals of West Virginia reviewed the termination order and affirmed it by memorandum decision.

DISPOSITION

affirmed

CASES CITED

- 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)
- State ex rel. W. Va. Dep't of Human Servs. v. Cheryl M., 177 W. Va. 688, 356 S.E.2d 181 (1987)
- In re Edward B., 210 W. Va. 621, 558 S.E.2d 620 (2001)

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