

SUPREME COURT OF MONTANA

In re the Matter of A.S., Youth in Need of Care, 2006 MT 281, 334
Mont. 280

146 P.3d 778 (2006) · No. No. 05-736 · Decided October 30, 2006

SUMMARY

The Supreme Court of Montana affirmed the termination of S.B.'s parental rights to A.S., a youth in need of care. The court held that the district court properly adjudicated A.S. as a youth in need of care based on the mother's admissions, despite procedural deficiencies in the adjudication record. It also upheld the district court's findings that the treatment plan was unsuccessful and that the mother's methamphetamine-related conduct was unlikely to change within a reasonable time.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	James C. Nelson; Patricia Cotter; Brian Morris; Jim Rice
JURISDICTION	Montana
DECIDED	October 30, 2006
DOCKET	No. 05-736
DISPOSITION	affirmed
PROCEDURAL POSTURE	S.B. appealed the termination of her parental rights to A.S. by the District Court for the Eighteenth Judicial District, Gallatin County.
STANDARD OF REVIEW	The decision to terminate parental rights is reviewed for abuse of discretion. The district court's factual findings are reviewed for clear error, and its conclusions of law are reviewed for correctness. Because parental care and custody implicate a fundamental liberty interest, the proceedings must also satisfy fundamentally fair procedures.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	S.B. v. Montana Department of Public Health and Human Services, State of Montana

TOPICS

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

PRACTICE AREAS

family law

termination of parental rights

child welfare

appellate procedure

QUESTIONS PRESENTED

1. Whether the district court properly adjudicated A.S. as a youth in need of care.
2. Whether the district court's findings of fact were clearly erroneous.
3. Whether the district court abused its discretion by terminating S.B.'s parental rights.

HOLDINGS

1. The district court properly adjudicated A.S. as a youth in need of care, notwithstanding deficiencies in the court's description of the purported stipulation, because S.B. was represented by counsel, did not object, and made admissions in counsel's presence establishing her methamphetamine addiction, need for treatment, and the impact of her addiction on A.S.
2. The district court's ultimate finding that dismissing the termination petition would create a substantial risk of harm to A.S. or be detrimental to her physical or psychological well-being was supported by the record and was not clearly erroneous.
3. The district court did not abuse its discretion in terminating S.B.'s parental rights because clear and convincing evidence established that A.S. was adjudicated a youth in need of care, S.B. failed to comply successfully with an appropriate treatment plan, and the conduct or condition rendering her unfit was unlikely to change within a reasonable time.

KEY QUOTATIONS

"The test for an abuse of discretion is "whether the trial court acted arbitrarily, without employment of conscientious judgment, or exceeded the bounds of reason resulting in substantial injustice." (¶ 24)

"In addition, the party seeking to terminate parental rights must demonstrate by clear and convincing evidence that the statutory requirements for termination have been met." (¶ 25)

FACTUAL BACKGROUND

A.S. was removed from S.B.'s care after authorities discovered methamphetamine-related conduct and later again after finding methamphetamine and drug paraphernalia in S.B.'s home while A.S. was present. Although S.B. initially completed treatment and obtained increased visitation, she relapsed, admitted renewed methamphetamine use, violated probation, and was terminated from a recovery program. Drug tests and the evidence at the termination hearing showed continued drug use, and the district court found that S.B. had not successfully completed her treatment plan and that her unfitness was unlikely to change within a reasonable time.

PROCEDURAL HISTORY

The Montana Department of Public Health and Human Services obtained temporary legal custody of A.S. after repeated incidents involving S.B.'s methamphetamine use and related criminal conduct. The district court

adjudicated A.S. a youth in need of care, approved treatment plans, and later terminated S.B.'s parental rights after finding that she had not complied with the treatment plan and that the condition rendering her unfit was unlikely to change within a reasonable time. The Montana Supreme Court treated S.B.'s appeal as timely because notice of entry of judgment was filed after the termination order and affirmed.

DISPOSITION

affirmed

CASES CITED

- In re T.H., 2005 MT 237, 328 Mont. 428, 121 P.3d 541
- In re Custody and Parental Rights of C.J.K., 2005 MT 67, 326 Mont. 289, 109 P.3d 232
- In re J.V., 2003 MT 68, 314 Mont. 487, 67 P.3d 242
- In re K.C.H., 2003 MT 125, 316 Mont. 13, 68 P.3d 788
- In re A.N.W., 2006 MT 42, 331 Mont. 208, 130 P.3d 619
- In re A.S., 2004 MT 62, 320 Mont. 268, 87 P.3d 408
- Matter of A.S.A., 258 Mont. 194, 852 P.2d 127 (1993)
- In re A.R., 2004 MT 22, 319 Mont. 340, 83 P.3d 1287
- In re T.E., 2002 MT 195, 311 Mont. 148, 54 P.3d 38
- In re M.A.E., 1999 MT 341, 297 Mont. 434, 991 P.2d 972
- In re C.A.R., 214 Mont. 174, 693 P.2d 1214 (1984)
- In re A.F., 2003 MT 254, 317 Mont. 367, 77 P.3d 266
- In re M.T., 2002 MT 174, 310 Mont. 506, 51 P.3d 1141
- In re E.K., 2001 MT 279, 307 Mont. 328, 37 P.3d 690