

SUPREME COURT OF APPEALS OF WEST VIRGINIA

In re M.R. Jr.

In re M.R. Jr. · No. 19-1131 · Decided June 25, 2020

SUMMARY

The West Virginia Supreme Court of Appeals affirmed an order granting permanent placement and adoption of M.R. Jr. with the adoptive mother of his sisters rather than his maternal great-grandmother, who had served as his temporary guardian and primary caregiver. The court held that the child's best interests, including the statutory preference for sibling placement and the existing sibling bonds, supported placement with the foster/adoptive parent while maintaining visitation with the great-grandmother.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Tim Armstead; Justice Margaret L. Workman; Justice Elizabeth D. Walker; Justice Evan H. Jenkins; Justice John A. Hutchison
JURISDICTION	West Virginia
DECIDED	June 25, 2020
DOCKET	19-1131
DISPOSITION	affirmed
PROCEDURAL POSTURE	M.H., the child's maternal great-grandmother and former temporary guardian, appealed the Berkeley County Circuit Court's order granting permanent placement of M.R. Jr. with J.C., the adoptive mother of the child's sisters.
STANDARD OF REVIEW	Conclusions of law are reviewed de novo. Factual findings in an abuse and neglect case tried without a jury are reviewed for clear error and will not be set aside unless the reviewing court is left with the definite and firm conviction that a mistake has been made.
PRECEDENTIAL VALUE	nonprecedential memorandum decision
PARTIES	M.H. v. West Virginia Department of Health and Human Resources, Guardian ad litem for M.R. Jr., J.C.

TOPICS

child custody

guardianships

family law procedure

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standard of review

PRACTICE AREAS

family law

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QUESTIONS PRESENTED

1. Whether the circuit court erred in determining that placement with J.C., the adoptive mother of the child's siblings, was in the child's best interest despite the child's strong bond with M.H., his former temporary guardian and primary caregiver.
2. Whether the West Virginia Department of Health and Human Resources' failure to immediately notify the circuit court after removing the child from M.H.'s physical custody required vacation of the final placement order.
3. What standard governs appellate review of factual findings and legal conclusions in an abuse and neglect proceeding.

HOLDINGS

1. The circuit court did not err in placing M.R. Jr. with J.C. because the evidence supported its determination that preserving the child's established sibling relationships was in his best interest, notwithstanding M.H.'s strong bond and history as the primary caregiver.
2. Although DHHR violated W. Va. Code § 49-4-602(c) by failing to immediately notify the circuit court of the removal, the violation did not require vacation of the dispositional placement order because it did not substantially frustrate the governing process and caused M.H. no prejudice.
3. Legal conclusions in an abuse and neglect case are reviewed de novo, while factual findings are reviewed for clear error and must be affirmed if plausible in light of the record viewed as a whole.

KEY QUOTATIONS

“the bond with the siblings over time is the most important bond” (at 5)

“the welfare of the child is the polar star by which the discretion of the court will be guided.” (at 6)

FACTUAL BACKGROUND

M.H., the child's maternal great-grandmother, served as the child's temporary guardian and primary caregiver after alleging that the child was in an unsafe parental environment. The child's parents later faced abuse and neglect allegations involving drug use, physical abuse, domestic violence, and a prior involuntary termination of parental rights, and they voluntarily relinquished their parental rights. The child had an established relationship with his three sisters, who had been adopted by J.C., and evidence showed that placement with J.C. would preserve those sibling relationships while allowing continued contact with M.H. The circuit court found that M.H. and the child had a strong bond but concluded that permanent placement with J.C. and the siblings was in the child's best interest.

PROCEDURAL HISTORY

M.H. was appointed the child's temporary legal guardian in October 2017 and retained physical custody for substantial periods. After the parents voluntarily relinquished their parental rights, the circuit court conducted placement hearings in April, May, and October 2019. The circuit court determined that placement with J.C. and the child's siblings was in the child's best interest, ordered a gradual transfer from M.H. to J.C. with continuing visitation, and entered its final placement order on November 5, 2019. The Supreme Court of Appeals affirmed.

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 Edward B., 210 W. Va. 621, 558 S.E.2d 620 (2001)
- In re Emily G., 224 W. Va. 390, 686 S.E.2d 41 (2009)
- In re Carol B., 209 W. Va. 658, 550 S.E.2d 636 (2001)
- State ex rel. Lipscomb v. Joplin, 131 W. Va. 302, 47 S.E.2d 221 (1948)
- In re S.W., 233 W. Va. 91, 755 S.E.2d 8 (2014)