

SUPREME COURT OF THE STATE OF MONTANA

Matter of D.G. and R.G.

2005 MT 139 (2005) · No. No. 04-848 · Decided June 7, 2005

SUMMARY

The Montana Supreme Court reviewed a district court order terminating D.W.’s parental rights to R.G. and D.G. The Court held that the approved treatment plans were appropriate, that D.W. had not successfully complied with them, and that the district court did not abuse its discretion in terminating her parental rights.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Karla M. Gray, Chief Justice; John Warner; Jim Rice; Patricia O. Cotter; Brian Morris
JURISDICTION	Montana
DECIDED	June 7, 2005
DOCKET	No. 04-848
DISPOSITION	affirmed
PROCEDURAL POSTURE	D.W. appealed the Sixteenth Judicial District Court's judgment terminating her parental rights to R.G. and D.G. and granting the Montana Department of Public Health and Human Services permanent legal custody with the right to consent to adoption.
STANDARD OF REVIEW	The Supreme Court reviews a termination decision for abuse of discretion, reviews factual findings for clear error, and reviews conclusions of law for correctness.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential
PARTIES	D.W. v. Montana Department of Public Health and Human Services

TOPICS

- termination of parental rights
- parental rights
- family law procedure
- standard of review
- family law

PRACTICE AREAS

- family law
- termination of parental rights
- child welfare

QUESTIONS PRESENTED

1. Whether the District Court abused its discretion by terminating D.W.'s parental rights under Montana Code Annotated § 41-3-609.
2. Whether the District Court clearly erred in finding that D.W. failed to successfully comply with appropriate court-approved treatment plans.

HOLDINGS

1. The treatment plans were appropriate because they addressed D.W.'s medical and psychological circumstances, including requirements that she obtain licensed medical or psychological diagnosis and treatment and follow the resulting recommendations.
2. The District Court did not abuse its discretion in terminating D.W.'s parental rights to R.G. and D.G.

KEY QUOTATIONS

“We have never established a precise test by which to determine whether a treatment plan is appropriate because of the uniqueness of each case involving potential termination of parental rights.” (¶ 10)

“The “including but not limited to” language of the task in the treatment plans is broad enough to require D.W. to follow through with the recommendations regarding her PTSD diagnosis.” (¶ 14)

FACTUAL BACKGROUND

D.W. was the natural mother of C.W., R.G., and D.G. The Department became involved after allegations of abuse and neglect, including sexual abuse of C.W.; R.G. and D.G. were later removed from D.W.'s home after they were allowed unsupervised contact with their father. The children were adjudicated youths in need of care, and D.W. entered three court-approved treatment plans. The District Court found that she had not successfully complied with any plan and that the condition or conduct rendering her unfit was unlikely to change within a reasonable time.

PROCEDURAL HISTORY

The Department obtained emergency protective services, temporary investigative authority, and later temporary legal custody over the children after allegations of abuse and neglect. The children were adjudicated youths in need of care, and D.W. entered three court-approved treatment plans. After finding that D.W. had failed to successfully comply with the treatment plans and that the condition rendering her unfit was unlikely to change within a reasonable time, the District Court terminated her parental rights to R.G. and D.G. The Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- In re L.S., 2003 MT 12, ¶ 5, 314 Mont. 42, 63 P.3d 497

- In re D.B., 2004 MT 371, ¶ 44, 325 Mont. 13, 103 P.3d 1026

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