

SUPREME COURT OF MONTANA

Matter of L.R.H., R.L.H., and C.H.

2009 MT 107N (Mont. 2009) · No. DA 08-0540 · Decided March 31, 2009

SUMMARY

The Montana Supreme Court affirmed an order terminating L.H.’s parental rights to three children adjudicated as youths in need of care. The court rejected L.H.’s claims that the Department failed to provide reasonable reunification efforts and that the State failed to satisfy the statutory requirements for termination. The decision was issued as a noncitable memorandum opinion.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Justice Brian Morris; Chief Justice Mike McGrath; Justice Patricia Cotter; Justice John Warner; Justice Jim Rice
JURISDICTION	Montana
DECIDED	March 31, 2009
DOCKET	DA 08-0540
DISPOSITION	affirmed
PROCEDURAL POSTURE	L.H. appealed the Eighteenth Judicial District Court's order terminating his parental rights to three children adjudicated youths in need of care.
STANDARD OF REVIEW	The decision to terminate parental rights is reviewed for abuse of discretion; underlying factual findings concerning statutory termination requirements are reviewed for clear error; and legal conclusions are reviewed for correctness.
PRECEDENTIAL VALUE	Nonprecedential memorandum decision; expressly designated noncitable.
PARTIES	L.H. v. State of Montana, Department of Public Health and Human Services

TOPICS

- termination of parental rights
- parental rights
- procedural due process
- appellate procedure
- standard of review

PRACTICE AREAS

family law

parental rights

termination of parental rights

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether the District Court violated L.H.'s due process rights by terminating his parental rights.
2. Whether the Department made reasonable efforts to reunify L.H. with his children and whether the treatment plan adequately stated and supported the required tasks.
3. Whether the State presented clear and convincing evidence that L.H.'s condition rendering him unfit was unlikely to change within a reasonable time under § 41-3-609(1)(f), MCA.
4. Whether the State presented evidence concerning the children's physical, mental, and emotional conditions and needs as required by § 41-3-609(3), MCA.

HOLDINGS

1. The District Court did not abuse its discretion in terminating L.H.'s parental rights because substantial evidence supported its findings and its legal conclusions were correct.
2. A district court's decision to terminate parental rights is reviewed for abuse of discretion, its relevant factual findings for clear error, and its legal conclusions for correctness.

FACTUAL BACKGROUND

The Department became involved after learning that L.H. took the children to casinos, left them alone in a car for hours while gambling, used duct tape to restrain one child and cover her mouth, and maintained an unsanitary and unsafe residence. L.H. also violated a California restraining order and was arrested and incarcerated. Although he initially participated in a treatment plan and received extensions of temporary custody, he later absconded, failed to maintain contact with the Department and his children, and did not pursue reunification services.

PROCEDURAL HISTORY

The Department petitioned for emergency services and temporary legal custody after determining that L.H. had endangered the children through neglect, unsafe conduct, and an unsafe residence. L.H. stipulated that three children were youths in need of care and that the Department had made reasonable reunification efforts. After approval and extensions of a treatment plan, the District Court held a termination hearing and entered an order terminating L.H.'s parental rights. The Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- In re A.H.D., 2008 MT 57, ¶¶ 11-12, 341 Mont. 494, 178 P.3d 131

