

SUPREME COURT OF APPEALS OF WEST VIRGINIA

In re: S.B. and A.W.

In re S.B. and A.W. · No. 17-0220 · Decided June 16, 2017

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the termination of petitioner father C.W.’s parental rights to S.B. and A.W. The court held that he failed to demonstrate improvement, did not initiate or participate in offered services, and that the West Virginia Department of Health and Human Resources provided reasonable services.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Allen H. Loughry II; Justice Robin Jean Davis; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Elizabeth D. Walker
JURISDICTION	West Virginia
DECIDED	June 16, 2017
DOCKET	17-0220
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner father appealed the Circuit Court of Kanawha County's order terminating his parental rights after an abuse and neglect proceeding.
STANDARD OF REVIEW	Conclusions of law are reviewed de novo. Findings of fact in an abuse and neglect case 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 committed.
PRECEDENTIAL VALUE	memorandum decision; no substantial question of law and no prejudicial error
PARTIES	C.W., petitioner father v. West Virginia Department of Health and Human Resources, S.B. and A.W., through guardian ad litem

TOPICS

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

PRACTICE AREAS

juvenile law

abuse and neglect

parental rights

appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court erred in finding that petitioner failed to improve his ability to properly parent the children.
2. Whether the DHHR provided reasonable rehabilitative services.
3. Whether the circuit court erred in denying petitioner a post-adjudicatory improvement period.
4. Whether termination of petitioner's parental rights was proper.

HOLDINGS

1. The circuit court did not clearly err in finding that petitioner failed to improve his ability to properly parent the children.
2. The circuit court did not err in denying petitioner visitation because visitation was not in the children's best interests.
3. The DHHR provided reasonable services to petitioner.
4. The circuit court properly denied petitioner a post-adjudicatory improvement period.
5. Termination of petitioner's parental rights was proper because there was no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected and termination was necessary for the children's welfare.

KEY QUOTATIONS

“the best interests of the child is the polar star by which decisions must be made which affect children.” (3)

“The circuit court further found that termination of petitioner’s parental rights was necessary for the children’s welfare.” (4)

FACTUAL BACKGROUND

The children were removed from the parents' care after allegations that petitioner physically and mentally abused them, including shocking one child with a Taser and subjecting both children to harsh physical punishments. The circuit court adjudicated petitioner an abusing and neglectful parent, barred visitation until he completed treatment, and ordered psychological evaluations and counseling. Petitioner did not contact the DHHR to initiate offered services, continued to deny the allegations, and received a psychological evaluation indicating a poor prognosis and an unwillingness to accept responsibility.

PROCEDURAL HISTORY

The DHHR filed an abuse and neglect petition in August 2016. After adjudicating petitioner an abusing and neglectful parent, the circuit court denied his motion for a post-adjudicatory improvement period and terminated

his parental rights in a February 9, 2017, dispositional order. The Supreme Court of Appeals of West Virginia 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)
- Michael K.T. v. Tina L.T., 182 W. Va. 399, 387 S.E.2d 866 (1989)
- Kristopher O. v. Mazzone, 227 W. Va. 184, 706 S.E.2d 381 (2011)
- In re Timber M., 231 W. Va. 44, 743 S.E.2d 352 (2013)
- In re Charity H., 215 W. Va. 208, 599 S.E.2d 631 (2004)
- In re R.J.M., 164 W. Va. 496, 266 S.E.2d 114 (1980)
- In re Kristin Y., 227 W. Va. 558, 712 S.E.2d 55 (2011)

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