

SUPREME COURT OF APPEALS OF WEST VIRGINIA

In re P.L.

No. 12-1372 (W. Va. Mar. 12, 2013) · No. No. 12-1372 · Decided March 12, 2013

SUMMARY

The West Virginia Supreme Court of Appeals affirmed the termination of a father’s parental rights to P.L. based on his continued drug and alcohol abuse and failure to comply with improvement-period conditions. The Court held that the circuit court had sufficient evidence to terminate the rehabilitation period and find no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected in the near future.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Brent D. Benjamin; Justice Robin Jean Davis; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	March 12, 2013
DOCKET	No. 12-1372
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner Father appealed the Webster County Circuit Court's order terminating his parental rights to P.L. after the court terminated his improvement period and conducted a dispositional hearing.
STANDARD OF REVIEW	Conclusions of law in an abuse and neglect case are reviewed de novo, while factual findings are reviewed for clear error. Findings are not set aside unless the reviewing court is left with a definite and firm conviction that a mistake has been made, and a finding must be affirmed if the circuit court's account of the evidence is plausible in light of the entire record.
PRECEDENTIAL VALUE	nonprecedential memorandum decision
PARTIES	Petitioner Father v. West Virginia Department of Health and Human Resources, Guardian ad litem for P.L.

TOPICS

termination of parental rights

parental rights

family law procedure

standard of review

appellate procedure

PRACTICE AREAS

family law

child welfare

appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court abused its discretion by terminating Petitioner Father's improvement or rehabilitation period before its expiration.
2. Whether the circuit court erred in terminating Petitioner Father's parental rights despite the bond between father and child, the length of his rehabilitation period, and the mother's compliance with her improvement period.
3. Whether the circuit court's factual findings supporting termination were clearly erroneous.

HOLDINGS

1. A circuit court has discretion to terminate a subject parent's period of improvement before the period has expired.
2. Termination of Petitioner Father's parental rights was proper where the evidence supported findings that there was no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected in the near future and that termination was necessary for the children's welfare.

KEY QUOTATIONS

“The circuit court has the discretion to terminate a subject parent’s period of improvement before it has expired.” (at 2)

“A finding is clearly erroneous when, although there is evidence to support the finding, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed.” (at 1)

FACTUAL BACKGROUND

The DHHR alleged that the parents abused drugs and alcohol. Although Petitioner Father received at least two improvement periods requiring him to remain free of drugs and alcohol, he appeared intoxicated in court and tested positive for alcohol and methamphetamine. The circuit court found that he had the ability to comply with rehabilitation but chose not to do so and denied his addiction problems, finding no reasonable likelihood that the conditions could be substantially corrected in the near future and that termination was necessary for the child's welfare.

PROCEDURAL HISTORY

The DHHR filed an abuse and neglect petition in July 2011 alleging parental drug and alcohol abuse. The circuit court granted Petitioner Father at least two improvement periods, but he repeatedly failed to comply with sobriety requirements, including appearing intoxicated and testing positive for alcohol and methamphetamine.

After a hearing, the circuit court terminated his rehabilitation period and parental rights, and the Supreme Court of Appeals of West Virginia affirmed.

DISPOSITION

affirmed

CASES CITED

- 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 Katie S., 198 W. Va. 79, 479 S.E.2d 589 (1996)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/west-virginia-supreme-court-of-appeals-of-west-virginia/2013/in-re-p-l-d34sf20w>