

SUPREME COURT OF APPEALS OF WEST VIRGINIA

In re C.M., R.M., T.M., K.M.-2, and G.M.

No. 21-0987 · No. No. 21-0987 · Decided April 14, 2022

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the termination of petitioner mother A.M.’s parental and custodial rights in a child abuse and neglect proceeding. The court held that the circuit court properly found no reasonable likelihood that the conditions of abuse and neglect would be substantially corrected in the near future and that termination was necessary for the welfare of R.M. The court also rejected the argument that a less restrictive disposition was required.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per curiam; Chief Justice John A. Hutchison; Justice Elizabeth D. Walker; Justice Tim Armstead; Justice William R. Wooton; Justice Alan D. Moats, sitting by temporary assignment
JURISDICTION	West Virginia
DECIDED	April 14, 2022
DOCKET	No. 21-0987
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner mother appealed the Nicholas County Circuit Court's order terminating her parental and custodial rights.
STANDARD OF REVIEW	Conclusions of law are reviewed de novo. In an abuse and neglect case tried without a jury, factual findings are reviewed for clear error and will not be overturned if plausible in light of the record viewed as a whole. The disposition, including termination of parental rights, is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Memorandum decision; no substantial question of law identified under West Virginia Rule of Appellate Procedure 21.
PARTIES	A.M., petitioner mother v. West Virginia Department of Health and Human Resources, Guardian ad litem for the children

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the circuit court's finding that termination of petitioner's parental rights to R.M. was necessary for the child's welfare was supported by the record.
2. Whether the circuit court erred by terminating petitioner's parental rights rather than imposing a less-restrictive disposition.

HOLDINGS

1. The circuit court did not clearly err in finding that termination of petitioner's parental rights was necessary for R.M.'s welfare because petitioner failed to correct the conditions of abuse and neglect, and the child would be at risk of abuse or neglect if returned to her care.
2. The circuit court was within its discretion to terminate petitioner's parental rights without imposing an intervening less-restrictive disposition because there was no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected in the near future.

KEY QUOTATIONS

“Courts are not required to exhaust every speculative possibility of parental improvement . . . where it appears that the welfare of the child will be seriously threatened, and this is particularly applicable to children under the age of three years who are more susceptible to illness, need consistent close interaction with fully committed adults, and are likely to have their emotional and physical development retarded by numerous placements.” (4)

“Termination of parental rights, the most drastic remedy under the statutory provision covering the disposition of neglected children, [West Virginia Code § 49-4-604] . . . may be employed without the use of intervening less restrictive alternatives when it is found that there is no reasonable likelihood under [West Virginia Code § 49-4-604(d)] . . . that conditions of neglect or abuse can be substantially corrected.” (5)

FACTUAL BACKGROUND

The DHHR alleged that petitioner's alcohol use impaired her ability to parent and that, while intoxicated, she acted erratically, attempted to strike the children's father, and injured two-year-old R.M. while attempting to leave the home. Petitioner stipulated to the allegations and received multiple improvement periods requiring substance-abuse treatment, drug and alcohol screening, stable housing, employment, and other services. She failed to complete the required treatment, missed drug screens, continued to engage in domestic violence, lacked suitable housing and stable employment, and did not consistently participate in visitation. The circuit court found no reasonable likelihood that the conditions of abuse and neglect would be corrected in the near future and that termination was necessary for R.M.'s welfare.

PROCEDURAL HISTORY

The DHHR filed a child abuse and neglect petition in July 2020 based primarily on petitioner's alcohol abuse, domestic violence, and conduct that endangered R.M. Petitioner stipulated to the allegations, was adjudicated an abusing parent, and received post-adjudicatory and post-dispositional improvement periods. After finding that she failed to complete required services, continued to abuse alcohol, lacked stable housing and employment, and did not correct the conditions of abuse and neglect, the circuit court terminated her parental and custodial rights on November 9, 2021. 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 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)