

SUPREME COURT OF APPEALS OF WEST VIRGINIA

In re S.C.

No. 12-1146 (W. Va. Mar. 12, 2013) (memorandum decision) · No. 12-1146 · Decided March 12, 2013

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the termination of the petitioner mother's parental rights in an abuse and neglect proceeding. The Court held that the circuit court had sufficient evidence to find that the conditions of abuse and neglect could not be substantially corrected in the near future and that termination was necessary for the child's welfare.

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 Allen H. Loughry II; Justice Menis E. Ketchum
JURISDICTION	West Virginia
DECIDED	March 12, 2013
DOCKET	12-1146
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner Mother appealed the Kanawha County Circuit Court's order terminating her parental 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 merely because the reviewing court might have decided the case differently.
PRECEDENTIAL VALUE	Unpublished memorandum decision; precedential value not established from the opinion text.
PARTIES	Petitioner Mother v. West Virginia Department of Health and Human Resources, Guardian ad litem for S.C.

TOPICS

termination of parental rights

parental rights

family law procedure

standard of review

appellate procedure

PRACTICE AREAS

family law

termination of parental rights

appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court clearly erred in finding that the conditions of abuse and neglect could not be substantially corrected in the near future.
2. Whether the circuit court erred in terminating Petitioner Mother's parental rights based on those findings.

HOLDINGS

1. The circuit court did not clearly err in finding that there were no reasonable grounds to believe the conditions of abuse and neglect could be substantially corrected in the near future.
2. Termination of Petitioner Mother's parental rights was proper because the circuit court found that the conditions of abuse and neglect could not be substantially corrected in the near future and that termination was necessary for the child's welfare.

KEY QUOTATIONS

“Although conclusions of law reached by a circuit court are subject to de novo review, when an action, such as an abuse and neglect case, is tried upon the facts without a jury, the circuit court shall make a determination based upon the evidence and shall make findings of fact and conclusions of law as to whether such child is abused or neglected.” (at 1)

“The Court finds that the circuit court was presented with sufficient evidence upon which it based findings that there were no reasonable grounds to believe that conditions of abuse and neglect could be substantially corrected in the near future and that termination was necessary for the child’s welfare.” (at 2)

FACTUAL BACKGROUND

The DHHR alleged that Petitioner Mother had chronic drug abuse problems and exposed the child to a violent relationship with her boyfriend. The child was allegedly left with an inappropriate caregiver and was burned by chemicals from a methamphetamine lab while in that caregiver's care. Mother did not fully comply with her six-month post-adjudicatory improvement period, and the circuit court found that the conditions of abuse and neglect could not 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 April 2010. The circuit court granted Petitioner Mother a six-month post-adjudicatory improvement period, which she did not fully complete, and terminated the improvement period before six months had elapsed. The circuit court later terminated her parental rights by order entered August 29, 2012, and the Supreme Court of Appeals 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)

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