

SUPREME COURT OF APPEALS OF WEST VIRGINIA

In re C.W., L.W., C.H., and A.W.

No. 19-0946 · No. 19-0946 · Decided June 24, 2020

SUMMARY

The West Virginia Supreme Court of Appeals affirmed the termination of petitioner father M.W.’s parental rights to four children. The court held that he failed to successfully complete his improvement period, did not substantially correct the conditions of abuse and neglect, and that termination was necessary for the children’s welfare.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per Curiam; Chief Justice Tim Armstead; Justice Margaret L. Workman; Justice Elizabeth D. Walker; Justice Evan H. Jenkins; Justice John A. Hutchison
JURISDICTION	West Virginia
DECIDED	June 24, 2020
DOCKET	No. 19-0946
DISPOSITION	affirmed
PROCEDURAL POSTURE	Father appealed the Circuit Court of Wood County's order terminating his parental rights after the court found that he failed to complete his post-adjudicatory improvement period and that there was no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected in the near future.
STANDARD OF REVIEW	Conclusions of law are reviewed de novo. Factual findings in an abuse and neglect case tried without a jury are reviewed for clear error and will not be set aside unless the reviewing court is left with the definite and firm conviction that a mistake has been committed.
PRECEDENTIAL VALUE	Published memorandum decision; precedential status not otherwise specified in the opinion text.
PARTIES	Petitioner Father M.W. v. West Virginia Department of Health and Human Resources, Guardian ad litem for the children

TOPICS

termination of parental rights

parental rights

family law procedure

standard of review

appellate procedure

PRACTICE AREAS

family law

juvenile abuse and neglect

parental rights

appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court clearly erred in finding that Father failed to successfully complete his post-adjudicatory improvement period.
2. Whether the circuit court clearly erred in finding that there was no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected in the near future.
3. Whether termination of Father's parental rights was necessary for the children's welfare.

HOLDINGS

1. The circuit court did not err in finding that Father failed to successfully complete his improvement period because he missed multiple drug screens, failed to complete parenting services, behaved in a manner that resulted in termination of visitation, and failed to remedy the unsafe home conditions.
2. The circuit court did not err in finding that there was no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected in the near future.
3. Termination of Father's parental rights was proper because there was no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected in the near future and termination was necessary for the children's welfare.

KEY QUOTATIONS

“This evidences a thorough failure to follow through with rehabilitative efforts designed to reduce the conditions of abuse and neglect, which, pursuant to West Virginia Code § 49-4-604(c)(3) (2019), constitutes a circumstance in which there is no reasonable likelihood the conditions of abuse and neglect can be substantially corrected.” (3)

“Termination of parental rights, the most drastic remedy under the statutory provision covering the disposition of neglected children, [West Virginia Code § 49-4-604 (2019)] . . . 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(c) (2019)] . . . that conditions of neglect or abuse can be substantially corrected.” (4)

FACTUAL BACKGROUND

The DHHR alleged that Father's substance abuse and severely unsafe and unsanitary housing conditions threatened the children. Police and CPS observed extensive trash, spoiled food, insects, a strong odor of urine, exposed wiring, a deteriorating ceiling, and children who were filthy and covered in bug bites. Father stipulated that he failed to provide adequate housing and was granted an improvement period, but he later missed drug

screens, visitations, and services, failed to complete parenting classes, and did not remedy the home conditions despite extensive services.

PROCEDURAL HISTORY

The DHHR filed an abuse and neglect petition in November 2017, later filing amended petitions to include additional children. Father stipulated to failing to provide adequate housing, received a post-adjudicatory improvement period and an extension, but failed to make meaningful progress despite extensive services. After dispositional hearings in April and July 2019, the circuit court denied a further improvement period and terminated his parental rights in an order entered September 16, 2019. 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)
- 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)