

SUPREME COURT OF APPEALS OF WEST VIRGINIA

In re: I.M.

No. 16-0175 (W. Va. Sept. 6, 2016) · No. No. 16-0175 · Decided September 6, 2016

SUMMARY

The West Virginia Supreme Court of Appeals affirmed the termination of petitioner father C.M.’s parental rights to I.M. The Court held that the circuit court did not err in denying an extension of the post-dispositional improvement period or in finding no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per Curiam; Chief Justice Menis E. Ketchum; Justice Robin Jean Davis; Justice Brent D. Benjamin; Justice Margaret L. Workman; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	September 6, 2016
DOCKET	No. 16-0175
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner Father C.M. appealed the Circuit Court of Wood County's order terminating his parental rights to I.M. He challenged the denial of an extension of his post-dispositional improvement period and the termination of his parental rights.
STANDARD OF REVIEW	Conclusions of law are reviewed de novo. In an abuse and neglect case tried upon the facts without a jury, the circuit court's findings of fact 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 made.
PRECEDENTIAL VALUE	Memorandum decision; the opinion states that a memorandum decision under West Virginia Rule of Appellate Procedure 21 is appropriate.
PARTIES	C.M., Petitioner Father v. West Virginia Department of Health and Human Resources, I.M., by guardian ad litem

TOPICS

termination of parental rights

domestic violence

parental rights

appellate procedure

standard of review

PRACTICE AREAS

juvenile abuse and neglect

termination of parental rights

improvement periods

domestic violence

QUESTIONS PRESENTED

1. Whether the circuit court erred by denying petitioner's request to extend his post-dispositional improvement period.
2. Whether the circuit court erred by terminating petitioner's parental rights after finding no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected in the near future.

HOLDINGS

1. The circuit court did not err in denying petitioner's request for an extension because petitioner failed to correct his domestic violence behaviors despite more than a year of services, and an additional three months of services would yield no benefit.
2. The circuit court did not err in terminating petitioner's parental rights because the evidence established no reasonable likelihood that he could substantially correct the conditions of abuse and neglect in the near future, and 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 2)

"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," (at 3)

FACTUAL BACKGROUND

The DHHR alleged that petitioner and the child's mother engaged in chronic domestic violence in the presence of two-year-old I.M., and petitioner stipulated to that conduct. Although petitioner completed the Batterer's Intervention Prevention Program and participated in other services, he continued to display controlling behavior, anger, harassment, and conduct minimizing or blaming others for the domestic violence. He also stopped participating in services, and the circuit court found that he had not substantially corrected the conditions that led to the abuse and neglect.

PROCEDURAL HISTORY

The DHHR filed an abuse and neglect petition alleging chronic domestic violence by petitioner and the child's mother in the child's presence. Petitioner stipulated to domestic violence, received post-adjudicatory and post-

dispositional improvement periods, and participated in services but continued to exhibit controlling and violent behaviors and ceased participating in services. The circuit court denied an extension, found no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected, terminated petitioner's parental rights, 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)
- In re R.J.M., 164 W. Va. 496, 266 S.E.2d 114 (1980)