

SUPREME COURT OF APPEALS OF WEST VIRGINIA

In re T.L. and T.W.

No. 13-0650 (W. Va. Nov. 26, 2013) · No. No. 13-0650 · Decided November 26, 2013

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the termination of a mother's parental rights to two children in an abuse and neglect proceeding. The court held that the record supported findings of habitual drug abuse, failure to respond to recommended treatment, and no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected in the near future. The court also rejected the argument that a less restrictive disposition involving relative placement was appropriate.

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	November 26, 2013
DOCKET	No. 13-0650
DISPOSITION	affirmed
PROCEDURAL POSTURE	Mother appealed from an order of the Circuit Court of Preston County terminating her parental rights to two children in an abuse-and-neglect proceeding.
STANDARD OF REVIEW	Conclusions of law are reviewed de novo. Findings of fact in an abuse-and-neglect case tried without a jury are reviewed for clear error and will not be overturned unless the reviewing court is left with a definite and firm conviction that a mistake was made.
PRECEDENTIAL VALUE	limited
PARTIES	Petitioner Mother v. West Virginia Department of Health and Human Resources, Guardian ad litem for T.L. and T.W.

TOPICS

termination of parental rights

parental rights

family law procedure

standard of review

appellate procedure

PRACTICE AREAS

family law

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appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court had sufficient clear and convincing evidence to terminate Mother's parental rights.
2. Whether a less restrictive disposition, including placement of the children with relatives, was available instead of termination.

HOLDINGS

1. 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 and that termination of Mother's parental rights was necessary for the children's welfare.
2. The circuit court was not required to adopt a less restrictive alternative or exhaust speculative possibilities of parental improvement where the children's welfare was seriously threatened and the evidence supported termination.

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.” (1)

“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” (2)

FACTUAL BACKGROUND

The DHHR alleged that Mother abused and neglected eight-year-old T.L. and two-year-old T.W. through continuing drug abuse, sporadic visitation, inappropriate visits, and heroin use during the first five months of her pregnancy with T.W., who tested positive for opiates at birth. Mother later tested positive for benzodiazepines, cannabinoids, cocaine, and opiates, while denying drug use, and she failed to appear at several adjudicatory hearings. The circuit court found that her habitual controlled-substance abuse seriously impaired her parenting and that she failed to make positive improvements or follow through with recommended treatment.

PROCEDURAL HISTORY

The DHHR filed an abuse-and-neglect petition in July 2012. After adjudicatory hearings, the circuit court adjudicated Mother abusive and neglectful and ordered drug-treatment efforts. Following a dispositional hearing, the court found that Mother's habitual drug abuse seriously impaired her parenting, that she failed to follow through with recommended treatment, and that termination was necessary for the children's welfare. 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)
- In re Katie S., 198 W. Va. 79, 479 S.E.2d 589 (1996)
- In re Timber M., 231 W. Va. 44, 743 S.E.2d 352 (2013)

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