

SUPREME COURT OF THE STATE OF MONTANA

In the Matter of A.S.

2002 MT 265 (2002) · No. No. 02-104 · Decided November 26, 2002

SUMMARY

The Montana Supreme Court affirmed the termination of S.S.'s parental rights to A.S., a youth in need of care. The court held that the district court did not err in finding that the treatment plan was reasonable and achievable, that reasonable reunification efforts were made, and that S.S.'s unfitness was unlikely to change within a reasonable time.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Justice Terry N. Trieweiler; Terry N. Trieweiler; Patricia Cotter; W. William Leaphart; James C. Nelson; Jim Rice
JURISDICTION	Montana
DECIDED	November 26, 2002
DOCKET	No. 02-104
DISPOSITION	affirmed
PROCEDURAL POSTURE	S.S. appealed the district court's order terminating his parental rights to A.S.
STANDARD OF REVIEW	The decision to terminate parental rights is reviewed for abuse of discretion; factual findings are reviewed for clear error; and conclusions of law are reviewed for correctness.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion
PARTIES	S.S. v. Montana State Department of Public Health and Human Services

TOPICS

- termination of parental rights
- parental rights
- family law procedure
- appellate procedure
- standard of review

PRACTICE AREAS

- family law
- termination of parental rights
- juvenile law

QUESTIONS PRESENTED

1. Whether the district court erred in finding that DPHHS made reasonable efforts to prevent removal and reunify A.S. with S.S.
2. Whether the treatment plan was reasonable and achievable and whether S.S. failed to comply with it.
3. Whether S.S. was unfit, unwilling, or unable to provide adequate parental care and whether the condition rendering him unfit was unlikely to change within a reasonable time.

HOLDINGS

1. The district court did not err in finding that DPHHS made reasonable efforts to provide services necessary to prevent termination of S.S.'s parental rights.
2. The district court correctly found that the treatment plan was reasonable and achievable and that S.S. failed to complete any of its goals.
3. The district court did not err in finding that S.S. was unfit to provide adequate parental care and that the condition rendering him unfit was unlikely to change within a reasonable time.

KEY QUOTATIONS

“A termination proceeding must necessarily include a judgment about the ability of the parent to care for the child in the future. Regrettably, we do not have a crystal ball to look into to make this determination, so it must, to some extent, be based on a person’s past conduct.” (¶ 23)

FACTUAL BACKGROUND

A.S. suffered numerous serious fractures, bruises, mouth injuries, and possible burns when he was approximately two weeks old. S.S. admitted that he may have injured A.S. by squeezing, shaking, or bouncing him, and medical evidence indicated that the injuries resulted from force inconsistent with S.S.'s account. A.S. was adjudicated a youth in need of care and remained in foster care because of special medical and developmental needs. S.S. failed to complete the services required by his treatment plan, including parenting, psychological, chemical-dependency, and related rehabilitative services.

PROCEDURAL HISTORY

The Montana Department of Public Health and Human Services petitioned the Eighth Judicial District Court in Cascade County to terminate S.S.'s parental rights. After a December 19, 2001 hearing, the district court issued findings of fact, conclusions of law, and an order terminating those rights on December 31, 2001. S.S. appealed, and the Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Custody of C.F., 2001 MT 19, ¶ 11, 304 Mont. 134, ¶ 11, 18 P.3d 1014, ¶ 11

- In re Matter of T.C. and W.C., 2001 MT 264, ¶ 13, 307 Mont. 244, ¶ 13, 37 P.3d 70, ¶ 13
- Matter of C.A.R. (1984), 214 Mont. 174, 187, 693 P.2d 1214, 1221

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