

SUPREME COURT OF APPEALS OF WEST VIRGINIA

In re S.P. and D.C.

No. 16-0667 · No. No. 16-0667 · Decided April 10, 2017

SUMMARY

The West Virginia Supreme Court of Appeals affirmed the Mercer County Circuit Court’s order terminating petitioner mother L.C.’s parental, custodial, and guardianship rights to S.P. and D.C. The Court held that petitioner failed to substantially comply with her improvement period, continued to have substance-abuse and domestic-violence issues, and did not remedy the conditions of abuse and neglect. The Court concluded that termination was supported by the record and was in the children’s best interests.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Allen H. Loughry II; Justice Robin Jean Davis; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Elizabeth D. Walker
JURISDICTION	West Virginia
DECIDED	April 10, 2017
DOCKET	No. 16-0667
DISPOSITION	affirmed
PROCEDURAL POSTURE	Mother appealed the Mercer County Circuit Court's order terminating her parental, custodial, and guardianship rights after abuse and neglect proceedings.
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.
PRECEDENTIAL VALUE	nonprecedential memorandum decision
PARTIES	L.C., Petitioner Mother v. West Virginia Department of Health and Human Resources, S.P. and D.C., by guardian ad litem

TOPICS

- termination of parental rights
- parental rights
- domestic violence
- appellate procedure
- family law procedure

PRACTICE AREAS

abuse and neglect

termination of parental rights

juvenile law

appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court abused its discretion by denying Mother an extension of her improvement period.
2. Whether the circuit court erred by terminating Mother's parental, custodial, and guardianship rights rather than imposing a less-restrictive dispositional alternative.

HOLDINGS

1. The circuit court did not abuse its discretion in denying an extension because Mother failed to substantially comply with the terms of her improvement period.
2. The circuit court properly terminated Mother's parental, custodial, and guardianship rights because there was no reasonable likelihood that she could substantially correct the conditions of abuse and neglect and reunification was not in the children's best interests.
3. Factual findings in an abuse and neglect case tried without a jury are not set aside unless clearly erroneous, while conclusions of law are reviewed de novo.

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.” (Opinion at 2)

“It is clear that petitioner failed to substantially comply with the terms of her improvement period, and the circuit court did not abuse its discretion in denying petitioner an extension of the same.” (Opinion at 3)

FACTUAL BACKGROUND

The DHHR alleged that the parents abused alcohol, engaged in domestic violence, and exposed the children to those conditions. Mother also experienced significant mental-health difficulties, including suicidal ideation and attempts, and continued to struggle with alcohol abuse and domestic-violence issues during the proceedings. Although she received improvement periods and the children were temporarily returned, the conditions persisted, visitation was inconsistent, and she failed to substantially comply with services or participate effectively in a family case plan.

PROCEDURAL HISTORY

The DHHR filed an abuse and neglect petition in September 2014. Mother stipulated to domestic violence and substance abuse and received improvement periods, during which the children were temporarily returned but were later removed after continued substance abuse and domestic violence concerns. After multiple dispositional hearings and additional time to comply with services, the circuit court terminated Mother's rights in an order dated May 11, 2016. The Supreme Court of Appeals 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)

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