

SUPREME COURT OF APPEALS OF WEST VIRGINIA

In re M.O.

In re M.O. · No. 20-0698 · Decided June 14, 2021

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the Wood County Circuit Court’s order terminating a father’s improvement period and parental rights to his son. Although the father had initially complied substantially with the improvement-period terms, the court relied on his relapse, continued substance-abuse concerns, inconsistent participation, and failure to pursue visitation in concluding that termination served the child’s best interests.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Jenkins
JURISDICTION	West Virginia
DECIDED	June 14, 2021
DOCKET	20-0698
DISPOSITION	affirmed
PROCEDURAL POSTURE	Father appealed the Circuit Court of Wood County's dispositional order terminating his post-adjudicatory improvement period and parental rights to M.O. in an abuse and neglect proceeding.
STANDARD OF REVIEW	Conclusions of law are reviewed de novo. In an abuse and neglect case tried without a jury, factual findings 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 was made.
PRECEDENTIAL VALUE	published
PARTIES	A.O., Petitioner Father v. West Virginia Department of Health and Human Resources, Guardian ad Litem for M.O.

TOPICS

[termination of parental rights](#)[parental rights](#)[family law procedure](#)[appellate procedure](#)[standard of review](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the circuit court erred by terminating Father's improvement period despite his substantial compliance with its terms and conditions.
2. Whether the circuit court erred by terminating Father's parental rights when he had substantially complied with the improvement period.
3. Whether the lack of additional reunification services after M.O. was placed with Father required reversal of the termination order.

HOLDINGS

1. A parent's substantial compliance with an improvement period does not by itself require continuation of the improvement period or preclude termination of parental rights; the court must consider the totality of the circumstances and the child's best interests.
2. The circuit court's findings that Father remained unable to maintain sobriety and adequately care for M.O., that the conditions could not be substantially corrected in the near future, and that termination was in M.O.'s best interests were not clearly erroneous.
3. The alleged lack of additional reunification services did not require reversal because the record showed that Father received weekly in-home assistance, safety checks, drug screening, and other services, and parents bear responsibility for initiating and completing the terms of an improvement period.

KEY QUOTATIONS

"In making the final disposition in a child abuse and neglect proceeding, the level of a parent's compliance with the terms and conditions of an improvement period is just one factor to be considered. The controlling standard that governs any dispositional decision remains the best interests of the child." (ii)

"The question at the dispositional phase of a child abuse and neglect proceeding is not simply whether the parent has successfully completed his or her assigned tasks during the improvement period. Rather, the pivotal question is what disposition is consistent with the best interests of the child." (14)

"Consequently, given the totality of the circumstances, the circuit court was justified in concluding that there was no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected in the near future and that the best interests of M.O. necessitate the termination of Father's parental rights." (16)

FACTUAL BACKGROUND

Father had a long history of substance abuse and initially entered treatment and substantially complied with the terms of his improvement period. After M.O. was returned to Father's home on a trial basis, Father missed drug screens, admitted relapsing and using marijuana, and had multiple positive drug screens. Following removal of M.O., Father had only sporadic contact with the DHHR, did not actively seek visitation, stopped fully participating in the improvement period, and failed to appear at the final dispositional hearing.

PROCEDURAL HISTORY

The DHHR filed an abuse and neglect petition concerning M.O.'s mother and later amended it to add allegations against Father based on substance abuse and unsafe housing. Father stipulated to abuse or neglect and received a post-adjudicatory improvement period. Although he initially substantially complied and M.O. was placed with him on a trial-reunification basis, Father relapsed, failed drug screens, had limited contact with the DHHR and child, and failed to appear at the final dispositional hearing. The circuit court terminated his 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 Katie S., 198 W. Va. 79, 479 S.E.2d 589 (1996)
- In Interest of Carlita B., 185 W. Va. 613, 408 S.E.2d 365 (1991)
- W. Va. Dep't of Hum. Serv. v. Peggy F., 184 W. Va. 60, 399 S.E.2d 460 (1990) (per curiam)
- In re Frances J.A.S., 213 W. Va. 636, 584 S.E.2d 492 (2003) (per curiam)
- In re B.H., 233 W. Va. 57, 754 S.E.2d 743 (2014)
- State v. Edward Charles L., 183 W. Va. 641, 398 S.E.2d 123 (1990)
- In re S. M., No. 11-1080, 2012 WL 2874145, at *2 (W. Va. Jan. 18, 2012) (memorandum decision)
- State ex rel. W. Va. Dep't of Health & Hum. Res. v. Dyer, 242 W. Va. 505, 836 S.E.2d 472 (2019)