

SUPREME COURT OF APPEALS OF WEST VIRGINIA

In re T.B.

No. 19-1091 (W. Va. June 25, 2020) · No. 19-1091 · Decided June 25, 2020

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the termination of petitioner father S.B.'s parental rights to T.B. The court held that the record supported findings that there was no reasonable likelihood the conditions of neglect could be corrected and that termination was necessary for the child's welfare, making a less-restrictive disposition unnecessary.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per Curiam; Chief Justice Tim Armstead; Justice Margaret L. Workman; Justice Elizabeth D. Walker; Justice Evan H. Jenkins; Justice John A. Hutchison
JURISDICTION	West Virginia
DECIDED	June 25, 2020
DOCKET	19-1091
DISPOSITION	affirmed
PROCEDURAL POSTURE	Father appealed the Greenbrier County Circuit Court's order terminating his parental rights following an abuse and neglect proceeding.
STANDARD OF REVIEW	Conclusions of law are reviewed de novo. In an abuse and neglect case tried upon the facts without a jury, factual findings are reviewed for clear error and will not be set aside unless the reviewing court is left with the definite and firm conviction that a mistake has been committed.
PRECEDENTIAL VALUE	memorandum decision
PARTIES	S.B., Petitioner Father v. West Virginia Department of Health and Human Resources, T.B., through guardian ad litem

TOPICS

- termination of parental rights
- parental rights
- guardianships
- guardianship procedure
- appellate procedure

PRACTICE AREAS

juvenile abuse and neglect

termination of parental rights

appellate review

QUESTIONS PRESENTED

1. Whether the circuit court erred by finding that termination of the father's parental rights was necessary for the child's welfare.
2. Whether the circuit court was required to impose a less-restrictive disposition, such as a relative guardianship, before terminating parental rights.

HOLDINGS

1. The circuit court did not clearly err in finding that termination of the father's parental rights was necessary for the child's welfare where the father had no bond with the child, failed to develop a relationship during the proceedings, failed to provide financial or emotional support or adequate housing, failed to attend hearings, and exercised only one visit.
2. A less-restrictive disposition, including a relative guardianship, was not required because the circuit court properly found that there was no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected in the near future.

KEY QUOTATIONS

“Termination of parental rights, the most drastic remedy under the statutory provision covering the disposition of neglected children, [West Virginia Code § 49-4-604 (2019)] may be employed without the use of intervening less restrictive alternatives when it is found that there is no reasonable likelihood under [West Virginia Code § 49-4-604(c) (2019)] that conditions of neglect or abuse can be substantially corrected.” (at 3)

FACTUAL BACKGROUND

The father had not seen the child for nearly three years, had failed to provide financial or emotional support, and acknowledged that he could not provide stable housing because his employment required regular travel. Although granted a post-adjudicatory improvement period, he failed to complete required parenting and adult life-skills services and random drug screening, failed to maintain contact with the DHHR, and attended only one supervised visit. The child was approximately five or six years old, had no bond with the father, and the permanency plan was adoption by the maternal grandparents.

PROCEDURAL HISTORY

The DHHR filed an abuse and neglect petition alleging, among other things, that the father was uninvolved in the child's life and failed to provide financial support. The father stipulated to failing to provide financial and emotional support and to failing to supervise or maintain contact with the child, and the circuit court adjudicated him as an abusing parent and granted a post-adjudicatory improvement period. After he failed to comply substantially with the case plan, failed to attend hearings, and exercised only one supervised visit, the circuit court terminated his parental rights. 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)
- In re Alyssa W., 217 W. Va. 707, 619 S.E.2d 220 (2005)
- In re Katie S., 198 W. Va. 79, 479 S.E.2d 589 (1996)
- In re R.J.M., 164 W. Va. 496, 266 S.E.2d 114 (1980)
- In re Kristin Y., 227 W. Va. 558, 712 S.E.2d 55 (2011)