

SUPREME COURT OF APPEALS OF WEST VIRGINIA

In re G.L., L.L., & A.L.

No. 13-0559 · No. No. 13-0559 · Decided October 21, 2013

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the termination of a mother's parental rights to three children. The court held that the circuit court did not abuse its discretion in denying a post-adjudicatory improvement period because the mother failed to demonstrate that she would fully comply with its requirements, and that substantial evidence supported termination based on continued drug abuse, incarceration, and failure to comply with rehabilitative efforts.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per Curiam; 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	October 21, 2013
DOCKET	No. 13-0559
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner Mother appealed the Kanawha County Circuit Court's order terminating her parental rights to G.L., L.L., and A.L., arguing that the court erred by denying her motion for a post-adjudicatory improvement period.
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 and will not be set aside unless the reviewing court is left with a definite and firm conviction that a mistake has been made.
PRECEDENTIAL VALUE	Memorandum decision under West Virginia Rule of Appellate Procedure 21; precedential effect not stated in the opinion.
PARTIES	Petitioner Mother v. West Virginia Department of Health and Human Resources, Guardian ad litem

TOPICS

termination of parental rights

parental rights

family law procedure

standard of review

appellate procedure

PRACTICE AREAS

family law

juvenile abuse and neglect

termination of parental rights

appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court erred by denying Mother's motion for a post-adjudicatory improvement period.
2. Whether the circuit court erred by terminating Mother's parental rights.

HOLDINGS

1. The circuit court properly denied Mother's motion because she failed to show by clear and convincing evidence that she would fully comply with the terms of another post-adjudicatory improvement period.
2. The circuit court properly terminated Mother's parental rights because substantial evidence showed no reasonable likelihood that she could substantially correct the conditions of abuse or neglect in the near future and that termination was in the children's best interests.

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. These findings shall not be set aside by a reviewing court unless clearly erroneous.” (at 2)

“courts are not required to exhaust every speculative possibility of parental improvement before terminating parental rights” (at 2)

FACTUAL BACKGROUND

The DHHR initially alleged that Mother and Father abused drugs, passed out after taking pills, exposed the children to needles, engaged in domestic violence, and forced the children to shoplift. Mother received an improvement period and initially substantially complied, resulting in the children being returned to parental custody or, as to G.L., continued placement for medical treatment. Later, Mother was incarcerated for shoplifting, admitted smoking marijuana, and failed to participate in family therapy with G.L. The circuit court then denied a renewed improvement period and terminated Mother's parental rights based on continued drug abuse, incarceration, and failure to comply with rehabilitative efforts.

PROCEDURAL HISTORY

The DHHR filed an abuse and neglect petition in 2010. After adjudicating Mother as an abusing parent, the circuit court granted an improvement period and later returned the children to parental custody, but subsequent drug use, incarceration, and noncompliance led to renewed proceedings. The circuit court denied Mother's renewed motion for a post-adjudicatory improvement period at disposition, terminated her parental rights, and awarded post-termination visitation at the children's discretion. 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 Kristin Y., 227 W. Va. 558, 712 S.E.2d 55 (2011)
- In re R.J.M., 164 W. Va. 496, 266 S.E.2d 114 (1980)

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