

SUPREME COURT OF THE STATE OF MONTANA

Matter of J.W., T.W., and E.R.L.L.

2013 MT 249N (Mont. 2013) · No. DA 13-0074 · Decided September 3, 2013

SUMMARY

The Montana Supreme Court affirmed the termination of E.W.'s parental rights to her three children under Montana Code § 41-3-609(1)(f). The court held that E.W. waived her challenge to the appropriateness of the treatment plans, that the Department made reasonable reunification efforts, and that substantial evidence supported the finding that she had not substantially complied with the treatment plans and was unlikely to change within a reasonable time. The opinion was issued as a noncitable memorandum opinion.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Chief Justice Mike McGrath; Mike McGrath; Michael E. Wheat; Beth Baker; Laurie McKinnon; Jim Rice
JURISDICTION	Montana
DECIDED	September 3, 2013
DOCKET	DA 13-0074
DISPOSITION	affirmed
PROCEDURAL POSTURE	E.W. appealed the Nineteenth Judicial District Court's order terminating her parental rights to her three children.
STANDARD OF REVIEW	Termination of parental rights is reviewed for abuse of discretion; findings of fact are reviewed for clear error; and conclusions of law are reviewed for correctness.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	E.W., birth mother v. Montana Department of Public Health and Human Services, State of Montana

TOPICS

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

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the District Court erred in finding that E.W.'s treatment plans were appropriate.
2. Whether the Department made reasonable efforts to reunite E.W. with her children.
3. Whether the District Court abused its discretion in terminating E.W.'s parental rights.

HOLDINGS

1. E.W. waived her challenge to the appropriateness of the treatment plans because she did not object to their goals or tasks when the plans were approved.
2. The Department made reasonable efforts to reunite E.W. with her children.
3. The District Court did not abuse its discretion in terminating E.W.'s parental rights because clear and convincing evidence established the statutory grounds for termination.

KEY QUOTATIONS

“this case is decided by memorandum opinion and shall not be cited and does not serve as precedent.” (¶ 1)

“Compliance with the treatment plan must be complete. Partial or substantial completion of the treatment plan is insufficient.” (¶ 13)

FACTUAL BACKGROUND

E.W.'s three children were adjudicated youths in need of care and remained in state care. E.W. agreed without objection to treatment plans requiring, among other things, parenting services, stable housing, counseling, supervised visitation, and regular contact with her social worker. She completed only three of eight tasks, including maintaining contact with her social worker, signing releases, and reviewing an occupational therapy evaluation; the court also relied on evidence of missed therapy sessions, homelessness, problems during supervised visitation, and professional opinions that meaningful change was unlikely within a reasonable time.

PROCEDURAL HISTORY

T.W. and J.W. were placed in care in November 2010 and adjudicated youths in need of care on March 30, 2011. E.R.L.L. was placed in care in August 2011 and adjudicated a youth in need of care on January 13, 2012. After the Department filed a termination petition on October 4, 2012, the District Court held a termination hearing on December 18, 2012, terminated E.W.'s parental rights under § 41-3-609(1)(f), MCA, and E.W. appealed.

DISPOSITION

affirmed

CASES CITED

- In re H.R., 2012 MT 290, ¶ 9, 367 Mont. 338, 291 P.3d 583

- In re H.R., 2012 MT 290, ¶ 10, 367 Mont. 338, 291 P.3d 583
- In re D.B., 2007 MT 246, ¶ 16, 339 Mont. 240, 168 P.3d 691
- In re K.J.B., 2007 MT 216, ¶ 22, 339 Mont. 28, 168 P.3d 629
- In re D.B., 2007 MT 246, ¶ 18, 339 Mont. 240, 168 P.3d 691
- In re D.S.B., 2013 MT 112, ¶ 10, 370 Mont. 37, 300 P.3d 702
- In re D.B., 2004 MT 371, ¶ 41, 325 Mont. 13, 103 P.3d 1026

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