

SUPREME COURT OF APPEALS OF WEST VIRGINIA

In re J.T. and C.H.

No. 20-0151 (W. Va. Sept. 3, 2020) · No. No. 20-0151 · Decided September 3, 2020

SUMMARY

The West Virginia Supreme Court of Appeals affirmed the termination of petitioner mother K.T.'s parental rights to J.T. and C.H. The court held that she was not entitled to a post-dispositional improvement period because she failed to demonstrate a substantial change in circumstances or a likelihood of full participation, and that the record supported findings that the conditions of abuse and neglect could not be substantially corrected in the near future.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Tim Armstead; Justice Margaret L. Workman; Justice Elizabeth D. Walker; Justice Evan H. Jenkins; Justice John A. Hutchison
JURISDICTION	West Virginia
DECIDED	September 3, 2020
DOCKET	No. 20-0151
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner mother appealed the Circuit Court of Raleigh County's order terminating her parental rights and argued that the court should have granted her a post-dispositional improvement period instead.
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 overturned if the circuit court's account of the evidence is plausible in light of the record viewed in its entirety.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	K.T., petitioner mother v. West Virginia Department of Health and Human Resources, J.T. and C.H., by guardian ad litem, R.J., intervenor foster parent

TOPICS

termination of parental rights

parental rights

family law procedure

appellate procedure

standard of review

PRACTICE AREAS

juvenile abuse and neglect

termination of parental rights

appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court abused its discretion by denying petitioner a post-dispositional improvement period.
2. Whether the circuit court erred in finding that there was no reasonable likelihood that the conditions of neglect or abuse could be substantially corrected in the near future and in terminating petitioner's parental rights rather than imposing a less-restrictive dispositional alternative.

HOLDINGS

1. The circuit court did not err in denying petitioner a post-dispositional improvement period because she failed to demonstrate by clear and convincing evidence that she was likely to fully participate, and she did not show a substantial change in circumstances since her prior improvement period.
2. The circuit court properly terminated petitioner's parental rights because there was no reasonable likelihood that the conditions of neglect or abuse could be substantially corrected in the near future and termination was necessary for the children's welfare.
3. The circuit court's factual findings were not clearly erroneous and were supported by a plausible view of the record.

KEY QUOTATIONS

"We have previously held that failure to acknowledge the issues of abuse and neglect renders an improvement period an "exercise in futility." (3)

"The record fully supports the finding that there was no reasonable likelihood that the conditions of neglect or abuse could be substantially corrected, and that termination of petitioner's parental rights was necessary for the children's welfare." (4)

FACTUAL BACKGROUND

The DHHR alleged that C.H. was born with methamphetamine, amphetamine, and tetrahydrocannabinol in his system and that petitioner later tested positive for methamphetamine. Petitioner stipulated to the substance-abuse allegations and received a post-adjudicatory improvement period requiring drug screening, supervised visitation, parenting and life-skills classes, and inpatient drug treatment. She subsequently tested positive, missed more than fifty drug screens and several visitations, failed to obtain inpatient treatment, and denied abusing substances despite the test results and her prior stipulation. The circuit court found that she was unwilling or unable to correct the conditions of abuse and neglect and terminated her parental rights.

PROCEDURAL HISTORY

The DHHR filed an abuse and neglect petition after one child was born drug-exposed and petitioner continued to test positive for methamphetamine. Petitioner stipulated to the substance-abuse allegations, was adjudicated an abusing parent, and received a post-adjudicatory improvement period. After petitioner failed drug screens, missed visitations, failed to obtain inpatient treatment, and denied having a substance-abuse problem, the circuit court terminated the improvement period and later terminated her parental rights. The Supreme Court of Appeals of West Virginia 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 M.M., 236 W. Va. 108, 778 S.E.2d 338 (2015)
- In re Timber M., 231 W. Va. 44, 743 S.E.2d 352 (2013)
- In re Kristin Y., 227 W. Va. 558, 712 S.E.2d 55 (2011)

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