

SUPREME COURT OF APPEALS OF WEST VIRGINIA

In re K.L.

In re K.L. · No. 18-0285 · Decided October 12, 2018

SUMMARY

The West Virginia Supreme Court of Appeals affirmed the termination of petitioner mother N.W.'s parental rights to K.L. The court held that there was no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected in the near future and that termination was in the child's best interests. The court also rejected the mother's arguments that economic factors warranted relief or that she should receive another improvement period.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Margaret L. Workman; Justice Elizabeth D. Walker; Justice Paul T. Farrell sitting by temporary assignment; Justice Tim Armstead; Justice Evan H. Jenkins; Justice Allen H. Loughry II, suspended and therefore not participating
JURISDICTION	West Virginia
DECIDED	October 12, 2018
DOCKET	18-0285
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner mother appealed the Kanawha County Circuit Court's order terminating her parental rights to K.L.
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 overturned if the circuit court's account of the evidence is plausible in light of the record viewed in its entirety.
PRECEDENTIAL VALUE	Unpublished memorandum decision; limited precedential value under the West Virginia Rules of Appellate Procedure.
PARTIES	N.W., Petitioner Mother v. West Virginia Department of Health and Human Resources, Guardian ad litem for K.L.

TOPICS

termination of parental rights

parental rights

family law procedure

appellate procedure

standard of review

PRACTICE AREAS

family law

juvenile law

child welfare

QUESTIONS PRESENTED

1. Whether the circuit court erred by terminating petitioner's parental rights after finding no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected in the near future and that termination was necessary for the child's welfare.
2. Whether petitioner was entitled to an improvement period based on her prior successful completion of an improvement period.

HOLDINGS

1. The circuit court properly terminated petitioner's parental rights because there was no reasonable likelihood that the conditions of abuse and neglect could be substantially corrected in the near future and termination was in the child's best interests.
2. The circuit court did not err by declining to grant petitioner an improvement period.
3. The DHHR was not required to make reasonable efforts to preserve petitioner's family because her parental rights to three other children had previously been terminated.

KEY QUOTATIONS

“A finding is clearly erroneous when, although there is evidence to support the finding, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed.” (1)

“While the DHHR was not required to provide services, petitioner was offered parenting classes, assistance to obtain housing, and a substance abuse evaluation in the instant proceedings and failed to take advantage of those services.” (2)

FACTUAL BACKGROUND

The DHHR alleged that K.L. had missed fifty-nine days of school, changed schools seven times in three years, and was exposed to drug paraphernalia in the home. Petitioner had a history of substance abuse and domestic violence, and her parental rights to three older children had previously been terminated. After stipulating to abuse and neglect, petitioner failed to complete a substance-abuse evaluation, tested positive on multiple drug screens, stopped appearing for screens and communicating with the DHHR, failed to obtain appropriate housing, and did not complete parenting classes.

PROCEDURAL HISTORY

The Department of Health and Human Resources filed an abuse and neglect petition alleging school absenteeism, frequent school changes, drug paraphernalia in the home, substance abuse, domestic violence, and the prior termination of petitioner's parental rights to three older children. Petitioner stipulated to the allegations

and was adjudicated an abusing parent. After petitioner failed to complete required services, maintain contact, obtain suitable housing, or address substance-abuse concerns, the circuit court found no reasonable likelihood that the conditions could be substantially corrected and terminated her 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)

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