

MONTANA SUPREME COURT

In re S.R.

322 Mont. 424 (2004) · Decided August 24, 2004

SUMMARY

The Montana Supreme Court affirmed the termination of G.R. Sr.’s parental rights. The Court held that the Department presented sufficient evidence under the Indian Child Welfare Act, including qualified expert testimony and evidence of active remedial efforts, to establish that continued custody was likely to cause serious emotional or physical damage to the children.

CASE DETAILS

COURT	Montana Supreme Court
WRITING FOR THE COURT	Justice Leaphart; Chief Justice Gray; Justice Cotter; Justice Regnier; Justice Rice
JURISDICTION	Montana
DECIDED	August 24, 2004
DISPOSITION	affirmed
PROCEDURAL POSTURE	G.R. Sr. appealed the termination of his parental rights following a district court proceeding under the Indian Child Welfare Act and Montana law.
STANDARD OF REVIEW	A district court's decision to terminate parental rights is reviewed for abuse of discretion. The Supreme Court examines whether the district court's factual findings are clearly erroneous and whether its legal conclusions are correct.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential.
PARTIES	G.R. Sr. v. State of Montana

TOPICS

- termination of parental rights
- indian child welfare act
- parental rights
- appellate procedure
- standard of review

PRACTICE AREAS

- family law
- termination of parental rights
- Indian Child Welfare Act
- appellate procedure

QUESTIONS PRESENTED

1. Whether the State presented sufficient evidence under the Indian Child Welfare Act to terminate G.R. Sr.'s parental rights.
2. Whether the Department made the active efforts required by the ICWA to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family.
3. Whether the evidence established beyond a reasonable doubt that continued custody by G.R. Sr. was likely to result in serious emotional or physical damage to the children.

HOLDINGS

1. The Department satisfied the ICWA's active-efforts requirement by providing G.R. Sr. with remedial services and rehabilitative programs through court-approved treatment plans, and those efforts proved unsuccessful because he did not complete the plans.
2. The State presented evidence beyond a reasonable doubt, including testimony from a qualified expert witness and a social worker, that continued custody by G.R. Sr. was likely to result in serious emotional or physical damage to the children.
3. The district court did not abuse its discretion because its findings were supported by substantial evidence, were not clearly erroneous, and did not misapprehend the effect of the evidence.

KEY QUOTATIONS

“It has been established that the Department has made reasonable efforts under the circumstances to reunite”
(at 427)

“We hold that the court’s findings of fact are not clearly erroneous, the findings are supported by substantial evidence and the District Court did not misapprehend the effect of the evidence.” (at 428)

FACTUAL BACKGROUND

G.R. Jr., S.R., and R.R. were enrolled members of the Northern Cheyenne Tribe through their mother's ancestry and had been removed from parental care. The Department developed four court-approved treatment plans for G.R. Sr., but he did not complete the required goals and tasks. A qualified ICWA expert testified that returning the children to the parents would likely result in serious emotional or physical damage, and the children had remained in foster care for fifteen of the preceding twenty-two months.

PROCEDURAL HISTORY

The children were adjudicated youths in need of care in June 2002. After a May 2003 hearing on the Department's petition for permanent legal custody and termination of parental rights, the district court terminated both parents' rights. G.R. Sr. appealed, while A.R. did not appeal.

DISPOSITION

affirmed

CASES CITED

- Matter of M.R.G., 2003 MT 60, ¶ 6, 314 Mont. 396, ¶ 6, 66 P.3d 312, ¶ 6
- Matter of K.S., 2003 MT 212, ¶ 8, 317 Mont. 88, ¶ 8, 75 P.3d 325, ¶ 8

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