

SUPREME COURT OF MONTANA

In the Matter of A.L., A.L. and C.L., Youths in Need of Care

2002 MT 169 · No. No. 02-179 · Decided July 30, 2002

SUMMARY

The Montana Supreme Court affirmed the termination of Tony's parental rights to three children adjudicated as youths in need of care. The court held that substantial evidence supported findings that Tony failed to comply with his court-approved treatment plan and that his substance-abuse-related unfitness was unlikely to change within a reasonable time, notwithstanding the State's willingness to allow additional time.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	W. William Leaphart; James C. Nelson; Terry N. Trieweiler; Patricia Cotter; Jim Rice
JURISDICTION	Montana
DECIDED	July 30, 2002
DOCKET	No. 02-179
DISPOSITION	affirmed
PROCEDURAL POSTURE	Tony appealed from the Eighth Judicial District Court's judgment terminating his parental rights.
STANDARD OF REVIEW	The Supreme Court reviewed the District Court's factual findings supporting termination for clear error and its conclusions of law for correctness. Clear error exists when a finding lacks substantial evidence, the court misapprehended the effect of the evidence, or the reviewing court is left with a definite and firm conviction that a mistake was made. The party seeking termination must prove every statutory requirement by clear and convincing evidence.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential.
PARTIES	Tony v. State of Montana

TOPICS

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

PRACTICE AREAS

family law

termination of parental rights

appellate procedure

QUESTIONS PRESENTED

1. Whether the District Court erred in terminating Tony's parental rights after the State indicated that it would not oppose giving him additional time to complete his treatment plan.

HOLDINGS

1. The District Court did not err in terminating Tony's parental rights because substantial evidence established that he failed to successfully complete the court-approved treatment plan and that his conduct or condition rendering him unfit was unlikely to change within a reasonable time.

KEY QUOTATIONS

“(1) The court may order a termination of the parent-child legal relationship upon a finding that any of the following circumstances exist: (f) the child is an adjudicated youth in need of care and both of the following exist: (i) an appropriate treatment plan that has been approved by the court has not been complied with by the parents or has not been successful; and (ii) the conduct or condition of the parents rendering them unfit is unlikely to change within a reasonable time.” (¶ 16)

“Therefore, we conclude that there is substantial evidence in the record supporting the District Court’s findings that Tony failed to successfully complete the court-approved treatment plan and that his conduct rendering him unfit would not change within a reasonable time.” (¶ 22)

FACTUAL BACKGROUND

The Department of Public Health and Human Services obtained temporary legal custody of Tony's three children after they were adjudicated youths in need of care. Tony's court-ordered treatment plan required parenting classes, chemical-dependency and mental-health evaluations and treatment, adequate housing and support, and regular contact with the children. Although he made some progress after his release from incarceration, he resumed using methamphetamine and cocaine, violated release conditions, was arrested and incarcerated, and did not complete the treatment plan. His parental rights to another child had previously been terminated because of substance-abuse-related neglect.

PROCEDURAL HISTORY

The District Court adjudicated the children youths in need of care, granted the Department of Public Health and Human Services temporary legal custody, and approved a treatment plan for Tony. After Tony failed to comply successfully with the plan and continued to use drugs, the District Court terminated his parental rights under § 41-3-609(1)(f), MCA (1999). The Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- In re C.R.O., 2002 MT 50, ¶ 10, 309 Mont. 48, 43 P.3d 913
- In re S.M., 2001 MT 11, ¶ 41, 304 Mont. 102, 19 P.3d 213
- In re E.K., 2001 MT 279, ¶ 33, 307 Mont. 328, 37 P.3d 690

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