

No. 34598 – In re: Ryan B.

and

No. 34704 – In re: Caitlyn M., Carson M., and Steven M.

Benjamin, Chief Justice, concurring:

FILED
December 22,
2009

RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

I write separately to underscore the procedure set forth in Syllabus Point 2 herein, by which a circuit court retains the discretion in specific cases not to order a terminated parent to pay child support if that is what is in the child’s best interests (based on factors such as permanency, etc.). Quite obviously, the overriding principle is to act in the child’s best interests. While the majority opinion establishes a presumption that a terminated parent continue to pay child support pursuant to the *Guidelines for Child Support Awards* found in *W.Va. Code* § 48-13-101, *et seq.* (2001), that presumption is subject to the best interests of the child. Should the court determine that the presumption should not be followed in a specific case, the court should make such a finding on the record with its reasons clearly set forth in its order.