

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

FILED

January 31, 2011
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

In Re: J.S., J.S., B.S., R.S., S.S.:

No. 101487
(Grant 10-JA-1 - 5)

MEMORANDUM DECISION

This appeal arises from the Circuit Court of Grant County, wherein the Petitioner Father's parental rights to J.S., J.S., B.S., R.S. and S.S. were terminated. Pursuant to Rule 1(d) of the Revised Rules of Appellate Procedure, the Court is of the opinion that this case is appropriate for consideration under the Revised Rules. The appeal was timely perfected by counsel, with the complete record from the circuit court accompanying the petition. The DHHR has filed its response. Both Guardians-ad-litem filed responses on behalf of the children. The Court has carefully reviewed the record provided and the written arguments of the parties, and the case is mature for consideration.

The Petitioner Father argues that the findings of fact supporting child abuse and neglect were not based upon conditions existing at the time of the filing of the petition; that the findings of abuse and neglect by Respondent Mother were erroneously imputed against Petitioner Father; that it was error to deny an improvement period; and that it was error to terminate Petitioner Father's parental rights. In the termination order, Judge Jordan noted twelve years of reports to CPS and extensive years of services, and found no reasonable likelihood that Petitioner Father could correct the conditions of abuse and neglect. Further, prior services failed so there is no likelihood that Petitioner Father would fully participate in a dispositional improvement period. Judge Jordan found Petitioner Father equally responsible for the conditions in the home, and found that he failed to protect the children. Both Guardians-ad-litem indicate in their responses that termination was proper under the circumstances and was in the best interests of the children and DHHR agrees.

Having reviewed the record and the relevant decision of the circuit court, the Court is of the opinion that the decisional process would not be significantly aided by oral argument. Upon consideration of the standard of review and the record presented, the Court determines that there is no prejudicial error. This case does not present a new or significant question of law. For these reasons, a memorandum

decision is appropriate under Rule 21 of the Revised Rules of Appellate Procedure.

For the foregoing reasons, we find no error in the decision of the circuit court and the termination of parental rights is hereby affirmed.

Affirmed.

ISSUED: January 31, 2011

CONCURRED IN BY:

Chief Justice Margaret L. Workman
Justice Robin Jean Davis
Justice Brent D. Benjamin
Justice Menis E. Ketchum
Justice Thomas E. McHugh