

**State of West Virginia  
Supreme Court of Appeals**

**In Re: D. S.:**

**No. 101522  
(Webster County 10-JA-12)**

**FILED**

February 14, 2011  
RORY L. PERRY II, CLERK  
SUPREME COURT OF APPEALS  
OF WEST VIRGINIA

**MEMORANDUM DECISION**

This appeal arises from the Circuit Court of Webster County, wherein the Petitioner Mother's parental rights to D.S. were terminated. The appeal was timely perfected by counsel, with the record from the circuit court accompanying the Petition. The Guardian-ad-litem has filed his response on behalf of the child, D. S.

The facts and legal arguments are adequately presented in the parties' written briefs and the record on appeal, and the decisional process would not be significantly aided by oral argument. Upon consideration of the standard of review and the record presented, the Court finds no substantial question of law and no prejudicial error. For these reasons, a memorandum decision is appropriate under Rule 21 of the Revised Rules.

The Petitioner Mother challenges the circuit court's termination of her parental rights and denial of post-termination visitation, arguing that the circuit court erred in proceeding to disposition without following all proper procedures including the development of a Child's Case Plan. In the underlying case, the Petitioner Mother stipulated to adjudication and agreed to waive notice and to proceed directly to disposition. (Adjudicatory Order p.4). According to the adjudicatory order, the circuit court indicated to the Petitioner Mother that if she waived notice and proceeded to disposition that she could not later complain, to which she responded that she understood. (Adjudicatory Order p. 4). The DHHR then recommended a one year drug rehabilitation period for Mother. The circuit court reserved ruling on the motion for rehabilitation period pending the Petitioner Mother's entry into and completion of such in-patient drug rehabilitation program. Although the Petitioner Mother quickly entered into such program, she left after only several days in treatment. (Dispositional Order p. 2 ). Thereafter, the circuit court held an evidentiary hearing on DHHR's motion to terminate her parental rights, granting said motion. The circuit court recognized that the Petitioner Mother had not been able to exercise visitation with D.S. due to inability to pass drug screens and denied post-termination visitation. (Dispositional Order p. 2-3).

The Guardian-ad-litem responds that the failure to follow certain procedures such as submission of a Child's Case Plan is insufficient cause for reversal of the termination in this case. The Guardian-ad-litem notes that the Petitioner Mother continued to abuse drugs, was unemployed, had no home of her own, and did not keep DHHR and her service providers apprised of her changing whereabouts. The Guardian-ad-litem asserts that termination of the Petitioner Mother's parental rights and denial of post-termination visitation are in the best interests of the child. Although we are concerned about the allegations that the DHHR failed to follow procedures such as preparation of the Child's Case Plan, we conclude that such alleged omissions do not warrant reversal in light of all the circumstances in this case.

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

Affirmed.

**ISSUED:** February 14, 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