

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

FILED

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

In Re: K.F., A.B., A.F., C.F., and C.F.:

No. 101588
(Roane County 09-JA-03 - 07)

MEMORANDUM DECISION

This appeal arises from the Circuit Court of Roane County, wherein the Petitioner Mother's parental rights to K.F, A.B., A.F., C.F. and C.F. were terminated. The appeal was timely perfected by counsel, with the complete record from the circuit court accompanying the Petition. The Guardian-ad-litem has filed her response on behalf of the children, K.F, A.B., A.F., C.F. and C.F. The Court has carefully reviewed the record provided and the written arguments of the parties, and the case is mature for consideration.

The Petitioner Mother challenges the circuit court's adjudication of the children as abused and neglected and the resulting termination of her parental rights, arguing that the circuit court erred in finding that she knew of the sexual abuse and failed to protect the children, that the circuit court erred in not granting her a post-adjudicatory improvement period and erred in terminating her parental rights. In the adjudicatory order, the circuit court rejected Petitioner Mother's testimony denying knowledge of the sexual abuse as not credible, noting that it was in direct conflict with the testimony of K.F. and A.B. In the dispositional order, the circuit court concluded that Mother was made aware of the sexual abuse of K.F. and that "no action was taken by [Petitioner Mother] to protect the child...." The circuit court also found that "...Neither adult respondent made any admissions, and without recognizing or acknowledging the problems causing the removal, there is little likelihood that the conditions causing removal can be corrected." The circuit court has the discretion to refuse to grant an improvement period when no improvement is likely. See *West Virginia Department of Health and Human Resources ex rel. Wright v. Doris S.*, 197 W.Va. 489, 475 S.E.2d. 865 (1996) The Guardian-ad-litem indicates in her response that adjudication, denial of an improvement period, and termination were proper given the evidence and were in the best interests of the children.

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: 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