

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

In Re: V.R., D.R., S.R., M.R., J.R., and H.R.:

No. 101607
(Mercer Co. 09-JA-37 - 41-OA & 09-JA-82-OA)

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

MEMORANDUM DECISION

This appeal arises from the Circuit Court of Mercer County, wherein the Petitioner Mother's parental rights to her six children, V.R., D.R., S.R., M.R., J.R., and H.R., 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 his response on behalf of all the children. The Court has carefully reviewed the record provided and the written arguments of the parties, and the case is mature for consideration.

Pursuant to Rule 1(d) of the Revised Rules of Appellate Procedure, this Court is of the opinion that this matter is appropriate for consideration under the Revised Rules. 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.

The Petitioner Mother challenges the circuit court's order terminating her parental rights, arguing that the circuit court erred in denying her a dispositional improvement period and in terminating her parental rights. The children in this matter were removed following the father's arrest and Petitioner Mother's concurrent incarceration. No appropriate caregivers existed, and the home was found to be unfit and unsanitary. The parents were granted a post-adjudicatory improvement period and provided services through the Department of Health and Human Resources, including parenting education. West Virginia law states that "[a]t the conclusion of the improvement period, the court shall review the performance of the parents in attempting to attain the goals of the improvement period and shall, in the court's discretion, determine whether the conditions of the improvement period have been satisfied and whether sufficient improvement has been made in the context of all the circumstances of the case to justify the return of the child[ren]." Syl. Pt. 6, *In the Interest*

of *Carlita B.*, 185 W. Va. 613, 408 S.E.2d 365 (1991). Ultimately, Petitioner Mother was found to be non-compliant with the DHHR's goals, as she was unable to implement any teachings or accept responsibility for the conditions leading to this matter. "Termination of parental rights, the most drastic remedy under the statutory provision covering the disposition of neglected children, *W.Va. Code*, 49-6-5 [1977] may be employed without the use of intervening less restrictive alternatives when it is found that there is no reasonable likelihood under *W.Va. Code*, 49-6-5(b) [1977] that conditions of neglect or abuse can be substantially corrected." Syl. Pt. 2, *In Re: R.J.M.*, 164 W.Va. 496, 266 S.E.2d 114 (1980). The circuit court found that Petitioner Mother was unlikely to correct the conditions of neglect or abuse, given that no improvement occurred during the post-adjudicatory improvement period. The Court finds that none of these rulings constitute error. The evidence indicated that improvement was not reasonably likely, and that termination of the Petitioner Mother's parental rights was in the best interests of the children.

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: March 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