

Workman, J., concurring:

I write separately to emphasize that the circuit court on remand should not leave Micah's future in limbo. While he, as the majority points out, may be one of few remaining sources of solace and comfort for his mother in her terminal illness, the legal system must not take from Micah what could be the only source of continued commitment and nurturance (to which every child should have a right) that he might ever have. And as tragic a situation as Ada faces, a greater tragedy would be an HIV positive four-year-old child with no one to count on. The foster parents with whom he has lived for almost two years, and with whom he has bonded and formed the mutual emotional attachment that results in real commitment, must know that they will be part of this child's permanency plan. That is something they deserve, but it is something that Micah deserves even more. As the majority points out, AIDS is a disease which, if not defeated, will eventually touch all of us. The pain and suffering that accompany this disease unfortunately leave many HIV positive children without permanent homes, and without parents willing to make the commitment to walk with these children on whatever road the disease takes them. It would be tragic indeed to take from Micah what could be his last chance for a permanent home.

I applaud the majority's suggestion that concurrent planning for permanency should occur even where parental rights are not terminated. This should be the practice in all abuse and neglect cases, so that there is a permanency plan for children where family reconciliation efforts are not successful for whatever reason.

It will be the task for the lower court on remand to see to it that Micah has a place to be, with people willing to make a permanent commitment. In the final analysis, however, it will be up to these two families to make it work for Micah. As we said in Honaker v. Burnside, 182 W.Va. 448, 388 S.E.2d 322 (1989),

No matter how artfully or deliberately the trial court judge draws the plan for these coming months, however, its success and indeed the chances for . . . [the children's] future happiness and emotional security will rely heavily on the efforts of these two . . . [families]. The work that lies ahead for both of them is not without inconvenience and sacrifice on both sides. Their energies should not be directed even partially at any continued rancor at one another, but must be fully directed at developing compassion and understanding for one another, as well as showing love and sensitivity to the children's feelings at a difficult time in all their lives.

Id. at 452-53, 388 S.E.2d at 326-27.