

FILED

June 1, 2001

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SUPREME COURT OF APPEALS
OF WEST VIRGINIA

RELEASED

June 4, 2001

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Maynard, Justice, dissenting:

I dissent because I do not believe that the circuit court terminated the appellant's parental rights only because he was arrested for delivery of a controlled substance. Moreover, I believe that the majority ignored the best interests of the child in this case.

The dispositional order shows that the circuit court's decision to terminate the appellant's parental rights was based on substantially more than the fact that the appellant had been arrested for delivery of a controlled substance and was facing the possibility of incarceration. It is clear that the appellant's failure to appreciate the seriousness of his felonious actions was an important factor in the circuit court's decision. During his psychological evaluation, the appellant told Dr. Fremouw that he was selling drugs to support his family, and he did not think he would get caught or that his son would be taken away. The appellant said he guessed he was "advertising to the wrong people." He repeatedly described his involvement in drugs as merely a business decision.

The appellant completed drug and alcohol assessments administered by Dr. Fremouw in an invalid manner suggesting that he was not being honest. In addition, his test scores showed a high level of resistance to treatment. It is apparent that the appellant never thought he was exposing his child to any

danger and would not have ceased his illegal drug activity had he not been arrested. Unlike the majority, I do not believe that the appellant's acknowledgment of his actions as "stupid" means that he has accepted responsibility for his conduct. Instead, the appellant's attitude leads me to conclude, as I am sure the circuit court concluded, that it is very likely that the appellant will engage in drug activity in the future.

The dispositional order also indicates that the circuit court considered the child's need for permanency and concluded that it would be in the child's best interests to terminate the appellant's parental rights. The circuit court's decision in this regard is consistent with this Court's vast case law holding that the best interests of the child are paramount in abuse and neglect proceedings. *See In re George Glen B. Jr.*, 207 W.Va. 346, 355, 532 S.E.2d 64, 73 (2000) ("[W]hen a petition alleging abuse and neglect has been filed, a circuit court has a duty to safeguard the child and provide for his or her best interests."); Syllabus Point 5, *Carter v. Carter*, 196 W.Va. 239, 470 S.E.2d 193 (1996) ("In visitation as well as custody matters, we have traditionally held paramount the best interests of the child."); *Michael K.T. v. Tina L.T.*, 182 W.Va. 399, 405, 387 S.E.2d 866, 872 (1989) ("[T]he best interests of the child is the polar star by which decisions must be made which affect children.").

Although the majority recognized the child's need for permanency, I believe the real best interests of the child were disregarded. The record in this case shows that Brian James D. lived in six different homes, presumably with at least six different caretakers, all before his second birthday. He simply has never had any permanency in his life and as a result, is developmentally delayed. In addition, the child has exhibited symptoms of fetal alcohol syndrome.

This Court has held that “courts are not required to exhaust every speculative possibility of parental improvement before terminating parental rights where it appears that the welfare of the child will be seriously threatened. . . .” Syllabus Point 7, in part, *In the Interest of Carlita B.*, 185 W.Va. 613, 408 S.E.2d 365 (1991). I firmly believe that this child will be exposed to the dangers of drug trafficking again if he is returned to his father’s custody, which the majority concedes will warrant yet another abuse and neglect proceeding. The evidence in the record shows that this child needs permanency in his life now. Therefore, I would affirm the final order of the circuit court terminating the appellant’s parental rights.

Accordingly, for the reasons set forth above, I respectfully dissent. I am authorized to state that Justice Davis joins me in this separate opinion.