

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

FILED

January 31, 2011
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

In Re: A.B., M.B., D.B., J.P., L.B.:

No. 101523
(08-JA-176 - 180)

MEMORANDUM DECISION

This appeal arises from the Circuit Court of Kanawha County, wherein the Petitioner Father's parental rights to A.B., M.B., D.B., and L.B. were terminated. Pursuant to Rule 1(d) of the Revised Rules of Appellate Procedure, the Court is of the opinion that this case is appropriate for consideration under the Revised Rules. 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, A.B., M.B., D.B., J.P. and L.B. The Court has carefully reviewed the record provided and the written arguments of the parties, and the case is mature for consideration.

The Petitioner Father challenges the circuit court's order terminating his parental rights to his children, and argues that his dispositional improvement period should have been continued. Pursuant to West Virginia Code §49-6-12(g), before a circuit court can grant an extension of a dispositional improvement period, the court must first find that the parent has substantially complied with the terms of the improvement period; that the continuation of the improvement period would not substantially impair the ability of the DHHR to permanently place the child; and that such extension is otherwise consistent with the best interest of the child. The circuit court in this matter found that although both parents have been allowed pre-adjudicatory, post-adjudicatory and dispositional improvement periods, they have continued to separate, reconcile and engage in repeated domestic violence. Further, the circuit court found that there is no reasonable likelihood that the conditions of abuse and neglect can be substantially corrected in the near future, as both parents have shown only minimal efforts to rectify the circumstances that lead to the filing of the petition. The Guardian-ad-litem indicates in her response that termination was proper under the circumstances and was 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: January 31, 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