

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

FILED

January 28, 2011
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

In Re: A.M.

No. 101538
(Mercer 09-JA-80-OA)

MEMORANDUM DECISION

This appeal arises from the Circuit Court of Mercer County, wherein the Petitioner Mother's parental rights to A.M. 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 the child, A.M. 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 order terminating her parental rights and argues that the circuit court erred in not granting her a dispositional improvement period. Pursuant to West Virginia Code §49-6-12 (c) (2), before a circuit court can grant a dispositional improvement period, the court must first find that the parent is likely to fully participate in the improvement period. The circuit court in this matter found that Mother "...has not responded to or followed through with the recommended and appropriate treatment which could have improved her capacity for adequate parental functioning...."(Dispositional Order p.2) Further, the circuit court found that there is no reasonable likelihood that the conditions of neglect or abuse can be substantially corrected in the near future. The Guardian-ad-litem indicates in his response that termination was proper as Mother failed rehabilitation on three occasions during the pendency of this case and is now incarcerated on drug-related charges.

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 28, 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