

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

FILED

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

In Re: T. T. and C.T:

No. 101543
(Mercer County 06-JA-73 & 74-DS)

MEMORANDUM DECISION

This appeal arises from the Circuit Court of Mercer County, wherein the Petitioner Father's parental rights to T.T and C.T. 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 her response on behalf of the children, T.T and C.T. 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, arguing that the circuit court erred in modifying the prior disposition which only terminated Petitioner Father's custodial rights to T.T and C.T. *See* W.Va. Code § 49-6-6. The circuit court found that the Petitioner Father's return to incarceration, the removal of the children from Mother's custody and Mother's voluntary relinquishment constituted a change of circumstances requiring a modification of disposition. The Guardian-ad-litem indicates in her response that the modification of disposition and termination were proper under the circumstances and were 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: February 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