

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

FILED

March 14, 2011

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

In Re: M.P. and J.S., Jr. :

No. 101618
(Kanawha Co. 09-JA-160 & 161)

MEMORANDUM DECISION

This appeal arises from the Circuit Court of Kanawha County, wherein the Petitioner Mother's parental rights to M.P. and J.S. 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, M.P. and J.S., Jr. and the Department of Health and Human Resources has filed a response. The Court has carefully reviewed the record provided and the written arguments of the parties, and the case is mature for consideration.

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. Pursuant to Rule 1(d) of the Revised Rules of Appellate Procedure, this Court is of the opinion that this matter is appropriate for consideration under the Revised Rules. 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.

The Petitioner Mother challenges the circuit court's order terminating her parental rights, arguing that the circuit court erred in finding that she abused or neglected her children, and that there was insufficient evidence presented to terminate her parental rights. The guardian ad item indicates in her response that the denial of the improvement period and the termination of parental rights was proper under the circumstances and was in the best interests of the child. DHHR also concurs in the termination of Petitioner Mother's parental rights.

In order to receive an improvement period, the parent must demonstrate, by clear and convincing evidence, that he or she is likely to fully participate in the improvement period. *See* W.Va. Code 49-6-12. In this case, the circuit court found that Petitioner Mother was not

compliant with her pre-adjudicatory improvement period, and terminated said improvement period. The circuit court found that Petitioner Mother was making “only minimal efforts to rectify the circumstances that led to the filing of this Petition” and failed to comply with the case plan.

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: March 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