

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: J. J.:

No. 101629
(Calhoun 09-JA-35)

MEMORANDUM DECISION

This appeal arises from the Circuit Court of Calhoun County, wherein the Petitioner Mother's parental rights to J.J. 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, J.J. 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 denial of her motion to extend her post-adjudicatory improvement period, arguing that additional time might have permitted her to achieve reunification with her child, J.J. Pursuant to West Virginia Code § 49-6-12(g), before a circuit court can grant an extension of a post-adjudicatory 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. See Syl. Pt. 2, *In Re Jamie Nicole H.*, 205 W.Va. 176, 517 S.E. 2d 41 (1999). In the present case, the circuit court considered these factors and found that the Petitioner Mother had not substantially complied with the terms of the improvement period and that such extension would only serve to delay permanency and was not consistent with the best interests of the child. As a result of these findings, the circuit court determined that extension was not warranted and denied Petitioner Mother's motion for extension of the improvement period. The Guardian-ad-litem's response indicates that Petitioner Mother made little progress during her improvement period and that the termination of the Petitioner Mother's parental rights was in the best interest of the child.

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