

**STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS**

In Re: Z.W. and E.W. :

No. 11-0216
(Mingo County 09-JA-44, 45)

FILED
June 17, 2011
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

MEMORANDUM DECISION

Petitioner Father appeals the termination of his parental rights to Z.W. and E.W. 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 children, Z.W. and E.W. 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, the Court is of the opinion that this case 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 petition in this matter was filed in October 2009. After successfully completing a post-adjudicatory improvement period, the children were returned to the biological parents. A short time later, a domestic violence incident caused police to come to the home, at which time mother appeared intoxicated. Moreover, both Petitioner Father and mother had missed several drug screens.

Petitioner Father appeals the termination of his parental rights, arguing that mother's substance abuse was the sole cause of the termination, and was improperly attributed to him. Petitioner Father also argues that the circuit court erred in denying post-termination visitation. This Court explained in *In re Emily*, 208 W.Va. 325, 332, 540 S.E.2d 542, 549 (2000), that "[f]or appeals resulting from abuse and neglect proceedings, such as the case *sub judice*, we employ a compound standard of review: conclusions of law are subject to a *de novo* review, while findings of fact are weighed against a clearly erroneous standard." In regard to post-termination visitation, the evidence must indicate that such visitation or continued contact would not be detrimental to the child's well being and would be in the child's best interest. See, *In Re Christina L.*, 194 W.Va. 446, 460 S.E.2d 692 (1995). The

circuit court terminated Petitioner Father's parental rights, finding that "the court has repeatedly given the Respondent Parents the opportunity to correct their ways so that they may parent their children. However, the subject children are continually subjected to neglect and emotional abuse." The court found that mother engages in drug use that has impaired her parenting skills, and that Petitioner Father has engaged in domestic abuse in the presence of his children. No post-termination visitation was granted. This Court has held that "[c]ourts are not required to exhaust every speculative possibility of parental improvement before terminating parental rights where it appears that the welfare of the child will be seriously threatened..." Syl. pt. 3, *In re Austin G.*, 220 W.Va. 582, 648 S.E.2d 346 (2007). The guardian ad litem indicated in his response that termination was in the best interests of the children.

This Court reminds the circuit court of its duty to establish permanency for Z.W. and E.W. pursuant to Rules 36a, 39, 41 and 42 of the West Virginia Rules of Procedure for Child Abuse and Neglect. Further, this Court reminds the circuit court of its duty pursuant to Rule 43 to find permanent placement for Z.W. and E.W. within eighteen months of the date of the disposition order.

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: June 17, 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