STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

FILED
May 16, 2011
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

In Re: C.L., H.L., and S.L.:

No. 11-0249
(Mercer County Nos. 08-JA-54-DS, 08-JA-55-DS, 08-JA-56-DS)

MEMORANDUM DECISION

This appeal arises from the Circuit Court of Mercer County, wherein the Petitioner Mother's parental rights to her younger children, H.L. and S.L., were terminated; her oldest child, C.L., was dismissed from the action below prior to disposition due to reaching the age of majority. 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 both children. The Court has carefully reviewed the record provided and the written arguments of the parties, and the case is mature for consideration.

This matter has been treated and considered under the Revised Rules of Appellate Procedure pursuant to this Court's Order entered in the appeal on February 16, 2011. 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.

The Petitioner Mother challenges the circuit court's order terminating her parental rights to her children, arguing that the West Virginia Department of Health and Human Resources failed to make reasonable efforts to achieve reunification with her children. "Although conclusions of law reached by a circuit court are subject to de novo review, when an action, such as an abuse and neglect case, is tried upon the facts without a jury, the circuit court shall make a determination based upon the evidence and shall make findings of fact and conclusions of law as to whether such child is abused or neglected. These findings shall not be set aside by a reviewing court unless clearly erroneous. A finding is clearly erroneous when, although there is evidence to support the finding, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed. However, a reviewing court may not overturn a finding simply because it would have decided the case differently, and it must affirm a finding if the circuit court's account of the evidence is plausible in light of the record viewed in its entirety." Syl. Pt. 1, *In the Interest of Tiffany*

Marie S., 196 W.Va. 223, 470 S.E.2d 177 (1996). In the present case, petitioner's various improvement periods lasted almost two years, though petitioner spent eight months of this time incarcerated on unrelated charges. During that time, the West Virginia Department of Health and Human Resources ("DHHR") attempted to assist petitioner in her efforts to complete the terms of the applicable case plan, but she was consistently non-compliant. Petitioner was offered extensive services, including counseling, therapy, and parenting education. Despite the DHHR's continued attempts at reunification, however, petitioner did not comply with the terms of her improvement period. Among other things, she quit taking her prescription medication against doctor's orders and in spite of her severe mental health issues. There were also many problems with petitioner's parenting abilities that became clear during supervised visitations, including failure to properly supervise the children. Petitioner requested that visitations not take place at her residence because she had trouble controlling the children there. Petitioner argues that the circuit court should have granted her additional improvement period time to make up for the eight months she lost while incarcerated. This Court has held that "courts 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. 7, in part, *In the Interest of Carlita B.,* 185 W.Va. 613, 408 S.E.2d 365 (1991) (quoting Syl. Pt. 1, in part, *In Re R.J.M.,* 164 W.Va. 496, 266 S.E.2d 114 (1980)). In this matter, any additional improvement periods would have been granted to the children's detriment, as petitioner has shown through her non-compliance that the conditions that led to the petition's filing could not be substantially corrected in a reasonable time period.

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: May 16, 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