

Memorandum Order:

State of West Virginia ex rel. Freddie M., Jr.,
Petitioner,

vs.) No. 34625

The Honorable N. Edward Eagloski, II, Judge
of the Circuit Court of Putnam County, et al.,
Respondents

FILED
March 3, 2009
released at 10:00 a.m.
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

On a former day, to wit, December 19, 2008, this Court entered a rule to show cause returnable on February 3, 2009, as to why a writ of prohibition should not be directed against the respondent, the Honorable N. Edward Eagloski, II, Judge of the Circuit Court of Putnam County, as requested in the petition for writ of prohibition filed in this cause on December 9, 2008. Having thoroughly considered the matters raised in the petition, the responses filed thereto, and the oral arguments of counsel, the Court hereby grants the requested writ of prohibition, as moulded herein.

It is hereby ordered that the Circuit Court of Putnam County shall not enforce that portion of the December 9, 2008, order providing for unsupervised visitation between the mother and the subject infant children at the discretion of the West Virginia Department of Health and Human Resources and that portion of the order is hereby nullified. It is further ordered that those portions of the December 9, 2008, order authorizing the mother's post-adjudicatory improvement period and case plan shall remain in full force and effect. This Court directs that any and all visitation between the mother and the subject children shall be supervised until such time as the following conditions have been met: (1) the recommended forensic psychiatric evaluation has been completed; (2) the multi-disciplinary team has had

an opportunity to review the results of the forensic psychiatric evaluation and make recommendations to the circuit court as to how this matter should proceed in light of the results of that evaluation; and (3) the circuit court has conducted a full evidentiary hearing as to whether unsupervised visitation between the mother and subject infant children would be in the best interests of the subject infant children in light of the results of the forensic psychiatric evaluation and the mother's progress on her case plan. In the event the Circuit Court of Putnam County did not enter an order authorizing and directing the immediate completion of a forensic psychiatric evaluation of the mother subsequent to the submission of this matter to this Court on February 3, 2009, the Circuit Court of Putnam County shall, within 10 days of the receipt of this Order, enter such an order.

Justice Albright did not participate in the consideration or decision of this matter.
Senior Status Justice McHugh sitting by temporary assignment.

Writ Granted, as Moulded.

Service of a copy of this order upon the respondents aforesaid shall have the same effect of the service of a formal writ.

The Clerk is hereby directed to issue the mandate forthwith.