

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE PARENTAL
RIGHTS AS TO J. E. C.

No. 42936

GEORGE C. AND RUTH C.,
Appellants,
vs.
SHANNON C.,
Respondent.

FILED

APR 21 2005

JANETTE M BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court judgment denying appellants' petition to terminate the parental rights of respondent Shannon C., as to her minor child J.C. Eighth Judicial District Court, Family Court Division, Clark County; Jennifer Elliott, Judge. Because we cannot conclude from the record that the district court erred in denying the petition, we affirm.

Appellants, Ruth C. and George C., are J. C.'s grandparents. Their son, Jason, is J. C.'s father. After a bench trial, the district court denied Ruth and George's petition. The district court found that, while Shannon was an unfit parent for most of the child's life, she had made significant improvement without any assistance and in the face of discouragement from Ruth and George. The district court determined that it would be in the child's best interests to gradually reunite with Shannon. Ruth and George appeal, arguing that the district court considered evidence that was not admitted or offered at trial, that the district court ignored the statutory presumption of abandonment and that substantial evidence did not support the district court's decision.

Admission of evidence

Ruth and George contend that the district court improperly relied on certificates of completion for parenting, anger management and domestic violence classes to support Shannon's claim that she was a fit parent. They argue that, during trial, Shannon never raised the issue of whether she had taken parenting classes or anger management/domestic violence classes, and therefore, the district court erred when it considered evidence of these two programs.

The district court's order refers precisely to Shannon's father's testimony, in which he stated that Shannon had completed parenting classes. The district court also cited a certificate of completion, which the district court noted was attached to Shannon's EDCR 7.27 brief. As to the anger management classes, Shannon's counselor testified that Shannon was ordered to complete an anger management/domestic violence program pursuant to her arrest for domestic violence. The counselor testified that Shannon completed the course. Shannon also testified that she completed the program and received a certificate confirming that fact. While we acknowledge that Shannon's counsel should have sought admission of the certificate, we perceive no abuse of discretion¹ in the district court's decision to consider the certificate based upon oral testimony.

Denial of petition

A trial court may terminate a parent's right if it finds clear and convincing evidence of parental fault and that terminating the parent's rights is in the child's best interests.² "This court will uphold

¹Matter of Parental Rights as to N.J., 116 Nev. 790, 804, 8 P.3d 126, 135 (2000) (stating that this court reviews a district court's decision to admit evidence for an abuse of discretion).

²Id. at 795, 8 P.3d at 129.

termination orders based on substantial evidence, and will not substitute its own judgment for that of the district court.”³ Pursuant to NRS 128.105, while the primary consideration in terminating parental rights is the best interests of the child, the district court must also find evidence of parental fault.⁴ NRS 128.105(2) requires that the petitioning party establish only one type of parental fault, including, among other things, abandonment, unfitness as a parent, and failure of parental adjustment.⁵

Shannon had little, if any, contact with social workers, was not given a case plan designed for her, and enjoyed no access to state resources. Instead, Shannon improved her condition and circumstances without any assistance. Although this process took some time, we agree with the district court’s assessment that the timing was reasonable under the circumstances, that Shannon had not failed to adjust as a parent, and had not abandoned the child for these purposes.

Shannon, with little outside assistance, completed anger management and domestic violence counseling, took parenting classes, purchased a vehicle, maintained stable employment and obtained medical insurance. Shannon is also drug-free, which was confirmed through workplace testing. Additionally, the district court concluded that Shannon had to leave Las Vegas in order to complete these goals. Finally, the district court concluded that Shannon completed these goals within a reasonable time, that her efforts were substantial and that her efforts could not be characterized as merely token efforts.

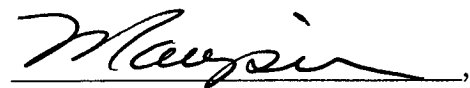
³Id.

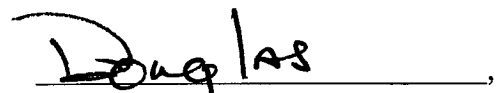
⁴Id.

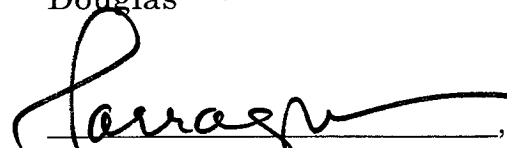
⁵NRS 128.105(2)(a), (c) & (d).

Shannon testified that she placed her daughter with Ruth and George, the best caregivers she could find, until she was able to remove herself from an abusive situation. She also testified that despite having been substantially discouraged from reunification and contact with the child, she took steps necessary to become the mother that the child deserves. Shannon also testified her belief that, due to the child's relative youth, the child can easily make the adjustment to living with her, especially in light of the transition plan contemplated by the district court as a condition of terminating Ruth and George's guardianship. Moreover, Shannon correctly points out that Ruth and George failed to show by clear and convincing evidence that reunification with the child would be against the child's best interests. Shannon also asserts that, based on her efforts, she has proven that she will be able to meet J.C.'s need for proper growth and development. Finally, the district court ordered a gradual reunification and designed a reunification plan with conditions. Accordingly, we conclude that substantial evidence supports the district court's determinations below and that the district court did not err in denying the petition for termination. We, therefore

ORDER the judgment of the district court AFFIRMED.

 J.
Maupin

 J.
Douglas

 J.
Parraguirre

cc: Hon. Jennifer Elliott, District Judge, Family Court Division
Bruce I. Shapiro, Ltd.
Kelleher & Kelleher, LLC
Clark County Clerk