

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE PARENTAL
RIGHTS AS TO J.J.C., A MINOR,

No. 45473

DAVID J. M.,
Appellant,
vs.
CLARK COUNTY DEPARTMENT OF
FAMILY SERVICES,
Respondent.

FILED

MAY 10 2006

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

ORDER OF AFFIRMANCE

This is an appeal from a district court order terminating appellant's parental rights. Eighth Judicial District Court, Family Court Division, Clark County; Gerald W. Hardcastle, Judge.

In order to terminate parental rights, a petitioner must prove by clear and convincing evidence that termination is in the child's best interest and that parental fault exists.¹ If substantial evidence in the record supports the district court's determination that clear and convincing evidence warrants termination, this court will uphold the termination order.²

In the present case, the district court determined that it is in the child's best interest that appellant's parental rights be terminated.

¹See Matter of Parental Rights as to D.R.H., 120 Nev. 422, 428, 92 P.3d 1230, 1234 (2004); NRS 128.105.

²Matter of D.R.H., 120 Nev. at 428, 92 P.3d at 1234.

The district court also found by clear and convincing evidence appellant's unfitness, failure of parental adjustment, and only token efforts.

As for unfitness,³ when determining whether a parent is unfit, the district court must consider a parent's "[e]xcessive use of intoxicating liquors, controlled substances or dangerous drugs[,] which renders the parent consistently unable to care for the child,"⁴ and an agency's inability to reunite the family despite reasonable efforts on its part.⁵

Failure of parental adjustment⁶ occurs when a parent is unable or unwilling, within a reasonable time, to substantially correct the conduct that led to the child being placed outside the home.⁷ Such a failure of parental adjustment may be shown when the parent fails to comply with the case plan to reunite the family within six months after the child has been placed outside the home.⁸

With respect to token efforts, parental fault may be established when a parent only makes token efforts to prevent neglect of the child.⁹ Moreover, if a child has been in foster care for fourteen months of any twenty consecutive months, it is presumed that the parent has

³NRS 128.105(2)(c).

⁴NRS 128.106(4).

⁵NRS 128.106(8).

⁶NRS 128.105(2)(d).

⁷NRS 128.0126.

⁸NRS 128.109(1)(b).


⁹NRS 128.105(2)(f)(2).

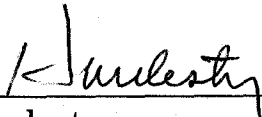
made only token efforts to care for the child and that termination is in the child's best interest.¹⁰

We have considered appellant's filed documents and reviewed the record, and we conclude that substantial evidence supports the district court's determination that respondent established by clear and convincing evidence that termination was warranted. Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹¹

 J.

Maupin
 J.
Gibbons

 J.
Hardesty

¹⁰NRS 128.109(1)(a) and (2).

¹¹In light of this order, we vacate the portion of our December 8, 2005 order directing respondent to file an answering brief, as we conclude that any response is not necessary for our resolution of this appeal. Accordingly, we deny as moot respondent's April 26, 2006 motion for an extension of time in which to file an answering brief. We also vacate our August 11, 2005 temporary stay. In addition, we note that appellant has failed to pay the filing fee as required by NRS 2.250(1)(a) and NRAP 3(f). The failure to pay the filing fee could constitute a basis for dismissing this appeal.

cc: Hon. Gerald W. Hardcastle, District Judge, Family Court Division
Clark County District Attorney David J. Roger/Juvenile Division
David J. M.
Clark County Clerk