

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE PARENTAL
RIGHTS AS TO B.A.L., G.D.L., AND
A.R.J.L.

No. 47189

ULONDA P.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

FILED

JAN 17 2007

JULIE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Bloom*
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.

Respondent the State of Nevada, through its Department of Human Resources, Division of Child and Family Services (DCFS), removed appellant Ulonda P.'s children from her home out of concern for their welfare and safety. Nearly three years later, the district court terminated Ulonda's rights as a parent, finding that her actions fell within three categories of parental fault and that terminating her parental rights was in the best interests of her children. Ulonda appeals, arguing that the district court's findings are not supported by substantial evidence. We disagree.

Standard of review

This court reviews orders terminating parental rights for substantial evidence and will not substitute its own judgment for that of

the district court.¹ Substantial evidence is evidence which one might reasonably accept as adequate to support a conclusion.²

Parental fault

Before a district court can terminate a person's parental rights, the state must prove that parental fault exists.³ The district court found that the State proved that Ulonda was unfit as a parent, failed to make parental adjustments, and only made token efforts to prevent the neglect of her children.

An "[u]nfit parent' is any parent of a child who, by reason of his fault or habit or conduct toward the child or other persons, fails to provide such child with proper care, guidance and support."⁴ Pursuant to NRS 128.106, the district court considers whether the parent is able, but has repeatedly failed, to provide a safe environment for the children, thereby preventing DCFS from reuniting the child with the parent. This is a key factor in determining whether a parent is unfit.

A failure of parental adjustment is an inability or unwillingness to correct the problems that cause children to be removed from a parent's home.⁵ The district courts presume that if a parent does

¹Kobinski v. State, 103 Nev. 293, 296, 738 P.2d 895, 897 (1987).

²Rio Suite Hotel & Casino v. Gorsky, 113 Nev. 600, 603-04, 939 P.2d 1043, 1045 (1997).

³NRS 128.105; Matter of Parental Rights as to N.J., 116 Nev. 790, 795-96, 8 P.3d 126, 129-30 (2000).

⁴NRS 128.018.

⁵NRS 128.0126.

not substantially comply with DCFS's plan to reunite a family within six months of removal, that failure is evidence of failure of parental adjustment.⁶

Additionally, parents are required to engage in more than just token efforts to prevent the neglect of their children.⁷ The district court presumes that "[i]f the child has resided outside of his home pursuant to [placement by DCFS] for 14 months of any 20 consecutive months, . . . the parent . . . [has] demonstrated only token efforts to care for the child."⁸

In this case, the district court found that Ulonda's children had been placed outside of her home by DCFS for nearly three years by the time it heard the State's petition. It found that during that period, Ulonda failed to complete the counseling and classes required under her case plan. It also found that Ulonda continued to allow contact between the children and their father, creating an unsafe environment. Ulonda's actions during that period prevented DCFS from reuniting her with her children. We conclude that substantial evidence in the record supports the district court's findings.

The best interests of Ulonda's children are served by terminating her parental rights

In termination proceedings, the district court's primary concern is the best interests of the child.⁹ The district court presumes that

⁶NRS 128.109(b).

⁷NRS 128.105(2)(f).

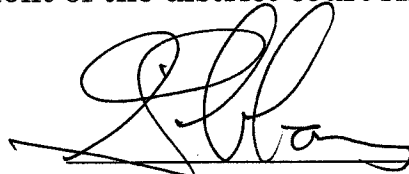
⁸NRS 128.109(1)(a).

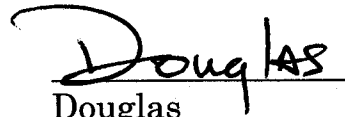
⁹NRS 128.105.

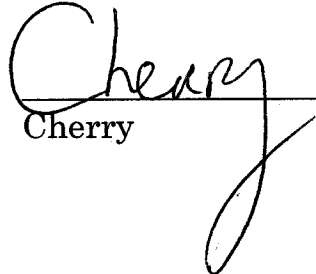
the best interests of a child are served by terminating parental rights if the child has been removed by DCFS from the parent's home and resided outside of that home for 14 months of any 20 consecutive month period.¹⁰

In this case, Ulonda's children had been removed from her custody for over three years by the time the district court heard the State's petition. Because DCFS was unable to return Ulonda's children to her during that period, the district court found that the presumption in NRS 128.109(2) had been triggered, which Ulonda could not rebut. We conclude that substantial evidence supports that finding. Therefore, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Cherry

cc: Hon. Gerald W. Hardcastle, District Judge, Family Court Division
Special Public Defender David M. Schieck
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger/Juvenile Division
Clark County Clerk

¹⁰NRS 128.109(2).