

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE PARENTAL  
RIGHTS AS TO D.P.

No. 47346

LEATHA R., A/K/A LEATHA P.,  
Appellant,  
vs.  
STATE OF NEVADA DEPARTMENT  
OF FAMILY SERVICES,  
Respondent.

**FILED**

SEP 08 2006

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY   
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person 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.<sup>1</sup> 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.<sup>2</sup>

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

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

<sup>2</sup>Matter 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.

With regard to unfitness and failure of parental adjustment, an "unfit parent" is one who, by his or her own fault, habit, or conduct toward the child, fails to provide the child with proper care, guidance, and support.<sup>3</sup> "Failure of parental adjustment" occurs when a parent fails, within a reasonable time, to substantially correct the circumstances that led to removal of the child from the home, notwithstanding appropriate efforts made by the State or agency to return the child.<sup>4</sup>

Under NRS 128.106, the district court shall consider, as part of any fitness or neglect determination, the "[e]motional illness, mental illness or mental deficiency of the parent which renders the parent consistently unable to care for the immediate and continuing physical or psychological needs of the child for extended periods of time."<sup>5</sup>

As for token efforts, parental fault may be established when a parent only makes token efforts to prevent neglect of the child.<sup>6</sup> Moreover, if a child has been in foster care for fourteen months of any twenty consecutive months, it is presumed that the parent has made only token efforts to care for the child and that termination is in the child's best interest.<sup>7</sup>

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<sup>3</sup>NRS 128.018.

<sup>4</sup>NRS 128.0126.

<sup>5</sup>NRS 128.106(1).

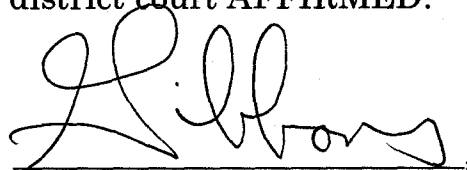
<sup>6</sup>NRS 128.105(2)(f)(2).

<sup>7</sup>NRS 128.109(1)(a) and (2).

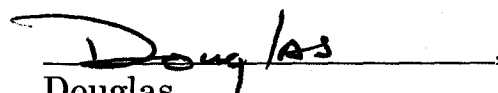
Here, the child was placed in foster care when she was approximately two months old and has remained there since—roughly a two year period. The district court recognized appellant's ongoing struggle with mental health issues coupled with concerns for the child's safety while in appellant's care. The court noted that without constant assistance, appellant is unable to tend to her mental health care treatment and medication requirements and, thus, appellant cannot address her anger management and parenting issues, which place the child at risk.

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.

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Douglas

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