

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE PARENTAL
RIGHTS AS TO J.D.N.

No. 49994

ROBIN N. A/K/A ROBIE N.,
Appellant,

vs.

CLARK COUNTY DEPARTMENT OF
FAMILY SERVICES,
Respondent.

FILED

NOV 13 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT

BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order terminating appellant's parental rights as to the minor child. 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 This court will uphold a district court's termination order if substantial evidence supports the decision.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. The district court also found, by clear and convincing evidence, parental fault on the grounds of unfitness, failure of parental adjustment, and only token efforts.

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.

As for unfitness,³ a parent is unfit when by his or her own fault, habit, or conduct toward the child, the parent fails to provide the child with proper care, guidance, and support.⁴ Failure of parental adjustment occurs when a parent is unable, within a reasonable time, to correct the conduct that led to the child being placed outside the home.⁵ Failure of parental adjustment is established when a parent fails to comply with the case plan to reunite the family within six months after the child has been placed outside the home.⁶

Here, the district court found by clear and convincing evidence that appellant had, through her own fault and habit, failed to provide care, guidance, and support for the child. Moreover, the court found that appellant had approximately twenty-nine months to address her substance abuse and mental health issues and to comply with the reunification plan provided by respondent, but that appellant failed to substantially comply with her case plan.

With respect to token efforts, under NRS 128.105(2)(f), parental fault may be established when a parent engages in only token efforts to (1) support or communicate with the child, (2) prevent neglect of the child, (3) avoid being an unfit parent, or (4) eliminating risk of serious physical, mental or emotional harm to the child. Moreover, under NRS 128.109(2), if a child has been in foster care for fourteen months of a twenty-month period, it is presumed that the parent has made only token

³NRS 128.105(2)(c).

⁴NRS 128.018.


⁵NRS 128.0126.

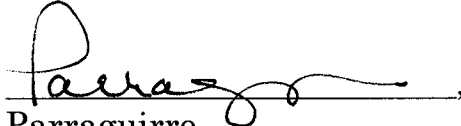
⁶NRS 128.109(1)(b).

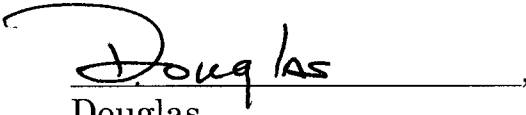
efforts to care for the child and that termination is in the child's best interest.⁷ The district court concluded that the appellant did not overcome the statutory presumption as to token efforts.

Having reviewed the record, we conclude that the district court's decision is supported by substantial evidence.⁸ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


Hardesty J.


Parraguirre J.


Douglas J.

⁷NRS 128.105(2)(f).

⁸Appellant's notice of appeal was filed in this court on August 13, 2007. As part of this court's pilot program for proper person civil appeals, when the notice of appeal was filed, appellant was mailed a civil proper person appeal statement and other documents with instructions to file her appeal statement within forty days from the date her appeal was filed in this court. See ADKT No. 385 (Order Establishing Pilot Program in Civil Appeals, June 10, 2005), Exhibit A (Instructions for Civil Litigants Without Attorneys); see also ADKT No. 385 (Order Extending Pilot Program for Civil Proper Person Appeals, May 10, 2006). To date, this court has not received a proper person appeal statement or any other documents from appellant. Appellant's failure to file a proper person appeal statement could constitute a basis for this appeal's dismissal. Additionally, appellant's failure to pay the filing fee required by NRS 2.250(1) and NRAP 3(f) could also constitute a basis for dismissing this appeal. Nevertheless, given the important rights at stake in this appeal, we have elected to review the merits.

cc: Hon. Gerald W. Hardcastle, District Judge, Family Court Division
Robin N.
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk