

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE PARENTAL
RIGHTS AS TO J.A.R., J.T.R., AND
J.B.R.

No. 50643

FILED

JUN 13 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

POLLYANN R.,
Appellant,
vs.
THE STATE OF NEVADA
DEPARTMENT OF FAMILY
SERVICES; J.A.R.; J.T.R.; AND J.B.R.,
Respondents.

ORDER OF AFFIRMANCE

This is an appeal from a district court order terminating appellant's parental rights as to three minor children.¹ Eighth Judicial District Court, Family Court Division, Clark County; Steven E. Jones, 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.² This court will uphold a district court's termination order if substantial evidence supports the decision.³ In the present case, the district court determined that it is in the children's

¹The district court's order also terminated the parental rights of the children's father; he did not appeal.

²See Matter of Parental Rights as to D.R.H., 120 Nev. 422, 428, 92 P.3d 1230, 1234 (2004); NRS 128.105.

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

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 failure of parental adjustment and only token efforts.

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.⁴ 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.⁵

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 children. Moreover, the court found that appellant had approximately 29 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 14 months of a 20-month period, it is presumed that the parent has made only token efforts to care

⁴NRS 128.0126.

⁵NRS 128.109(1)(b).

for the child and that termination is in the child's best interest.⁶ 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. Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁷

Maupin, J.

Maupin

Cherry, J.

Cherry

Saitta, J.

Saitta

cc: Hon. Steven E. Jones, District Judge, Family Court Division
Special Public Defender David M. Schieck
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger/Civil Division
Ronald G. Kirschenheiter
Eighth District Court Clerk

⁶NRS 128.105(2)(f).

⁷Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted in this appeal.