

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

No. 52534

KENNETH R. R., JR.,

Appellant,

vs.

THE STATE OF NEVADA; AND A.R.R.,
A MINOR,

Respondents.

FILED

OCT 08 2009

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

ORDER OF AFFIRMANCE

This is an appeal from a district court order terminating appellant's parental rights as to a minor child. Eighth Judicial District Court, Family Court Division, Clark County; Steven E. Jones, Judge.

Following a bench trial on respondent the State of Nevada's amended petition to terminate appellant's parental rights, the district court determined that termination of appellant's parental rights was in the child's best interest and found four grounds of parental fault by clear and convincing evidence: unfitness, failure of parental adjustment, only token efforts, and abandonment. Appellant challenges the district court's order terminating his parental rights for several reasons.

Standard of review

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

This court will uphold a district court's termination order if substantial evidence supports the decision. D.R.H., 120 Nev. at 428, 92 P.3d at 1234.

Child's best interest

When determining what is in the child's best interest, the district court must consider the child's continuing need for "proper physical, mental and emotional growth and development." NRS 128.005(2)(c). If a child has been in foster care for 14 of any 20 consecutive months, it is presumed that the termination of parental rights is in the child's best interest. NRS 128.109(2). Once this statutory presumption arises, the parent has the burden to present evidence to overcome the presumption, Matter of Parental Rights as to A.J.G., 122 Nev. 1418, 1426, 148 P.3d 759, 764 (2006), and it cannot be overcome by evidence that the State failed to provide services to the family. NRS 128.109(3).

Here, the district court found that, based on the statutory presumption, the State proved by clear and convincing evidence that it was in the child's best interest to terminate appellant's parental rights. We conclude that substantial evidence supports the district court's finding that termination of appellant's parental rights was in the child's best interest. Thus, we now consider the district court's parental fault findings.

Parental fault

Appellant contends that reasonable efforts were not made to reunite the family so that the district court's findings of parental fault were improper, that he successfully rebutted the statutory presumptions, that the statutory presumptions in and of themselves are insufficient grounds to terminate parental rights, and that substantial evidence does not support the district court's order.

Parental fault may be established by demonstrating any one of several grounds, including only token efforts to communicate or support a child. NRS 128.105(2). An order terminating parental rights “must be made in light of the considerations set forth in [NRS 128.105] and NRS 128.106 to 128.109, inclusive.” NRS 128.105. As part of the analysis, the court must consider the services provided or offered to a parent to facilitate reunification, the child’s needs, the efforts made by the parent to adjust his or her circumstances, conduct or conditions, including maintaining regular visitation or contact with the child and with the child’s custodian, and whether additional services would likely bring about lasting parental adjustment so that the child could be returned home within a predictable period. NRS 128.107.

Here, regardless, the district court found that reasonable efforts were made by the State to reunite the family. Having considered the appellate record, we conclude that the district court’s parental fault findings should not be disturbed due to an alleged lack of reasonable efforts made to reunite the family. In light of that conclusion, we have considered the district court’s parental fault findings and resolve that substantial evidence supports the district court’s finding that appellant made only token efforts to communicate with or support the child.¹ NRS 128.105(f)(1).

¹We note that the district court need only find one parental fault factor, along with a finding that termination is in the child’s best interest, to warrant termination. See NRS 128.105.

Because we conclude that substantial evidence supports the district court's finding that termination of appellant's parental rights was in the child's best interest and that parental fault exists, we

ORDER the judgment of the district court AFFIRMED.²

Cherry, J.
Cherry

Douglas, J.
Douglas

Gibbons, J.
Gibbons

cc: Hon. Steven E. Jones, District Judge, Family Court Division
Clark County District Attorney David J. Roger/Civil Division
Clark County District Attorney David J. Roger/Juvenile Division
Legal Aid Center of Southern Nevada
Kenneth R. R., Jr.
Eighth District Court Clerk

²Having considered appellant's remaining arguments, we conclude that they lack merit.