IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE PARENTAL RIGHTS AS TO J.G.M.,

DANA MARIE M., A/K/A DANA M.,
Appellant,
vs.
STATE OF NEVADA DEPARTMENT OF FAMILY SERVICES AND J.G.M.,
Respondents.

No. 55056

FILED

SEP 13 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY
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; Cynthia Dianne Steel, Judge.

The district court determined that termination was in the child's best interest and found two grounds of parental fault: failure to make parental adjustments and token efforts to support or communicate with the child. Matter of Parental Rights as to D.R.H., 120 Nev. 422, 428, 92 P.3d 1230, 1234 (2004) (holding that "[i]n 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); NRS 128.105. On appeal, appellant challenges the court's findings, arguing that no evidence in the record establishes (1) that the best interest of the child would be served by termination, and (2) parental fault. Having considered appellant's contentions in light of the record and the parties' appellate briefs, we conclude that substantial evidence supports the district court's order terminating appellant's parental rights.

D.R.H., 120 Nev. at 428, 92 P.3d at 1234 (noting that this court will uphold a district court's termination order if substantial evidence supports the decision). Therefore, we affirm.

DISCUSSION

Child's best interest

When a child has resided outside of the home for 14 of any 20 consecutive months, it is presumed that termination of parental rights is in the child's best interest. NRS 128.109(2). In this case, the child had resided outside the home for 25 months as of the time of the district court hearing; thus, the district court properly applied the statutory presumption. Appellant then failed to rebut the presumption.[1] Matter of Parental Rights as to A.J.G., 122 Nev. 1418, 1426, 148 P.3d 759, 764 (2006). The record reflects that the district court's overarching concern, as it must be, was for the well-being of the child, who has special needs. See NRS 128.105 (providing that "[t]he primary consideration in any proceeding to terminate parental rights must be whether the best interests of the child will be served by the termination"). The court found that appellant was unable to demonstrate that she could care for the child or provide an adequate support system for the child's care. The court's conclusion is supported by substantial evidence in the record, as it was

[1]We find no merit to appellant's claim that the district court failed to consider the child's relationship with his older half-sibling when determining the best interest of the child. There is nothing in the record to indicate that there was a close-sibling relationship between the child and his half-sibling.

based on the testimony and documentary evidence presented at the termination hearing.

Additionally, in instances when a child has been placed in foster care, the district court must look at specific considerations, including whether the child has become integrated into the foster family "to the extent that [his] familial identity is with that family." NRS 128.108. Other considerations include the length of time the child has lived in a stable foster home and the permanence as a family unit of the foster family. See NRS 128.108(4) and (5). In this case, the court focused on the foster family's commitment to the child and was clearly impressed by the foster parents' ability to provide for the child's special needs. The court further noted that the child had essentially been integrated into the foster family. Although the record indicates that appellant has consistently maintained visitation with the child, in determining whether the child's best interests would be served by terminating parental rights, the district court properly considered the child's relationship with the foster family and continuing need for "proper physical, mental and emotional growth and development." NRS 128.005(2)(c).

Parental fault

Appellant argues that any evidence of parental fault was cured by her substantial compliance with the case plan. Parental fault may be established by demonstrating, among other things, failure to make parental adjustments. NRS 128.105(2)(d). In this case, substantial evidence supports the district court's determination that appellant failed to make the necessary parental adjustments. D.R.H., 120 Nev. at 428, 92 P.3d at 1234.

When determining whether a parent has failed to make parental adjustments under NRS 128.105(2)(d), the district court evaluates whether the parent is unwilling or unable within a reasonable time to substantially correct the circumstances, conduct, or conditions that led to the child being placed outside of the home. NRS 128.0126. Here, we conclude that the district court properly determined that appellant failed to timely make the necessary parental adjustments to preserve her parental rights. In particular, substantial evidence in the record indicates that appellant failed to show an ability to provide adequate care for the child. At the termination hearing, the respondent State of Nevada Department of Family Services provided testimony from a specialist from the Department of Family Services who expressed her belief that appellant could not care for the child. Additionally, a letter from the child's pediatrician was introduced, in which the pediatrician expressed doubt as to the appellant's comprehension of the child's special needs.[2]

Although, as to each of the issues discussed above, conflicting testimony and documentary evidence was presented, this court will not reweigh the evidence or witness credibility. See Castle v. Simmons, 120 Nev. 98, 103, 86 P.3d 1042, 1046 (2004). Accordingly, because substantial

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[2]Because we determine that substantial evidence supports the district court's finding of failure to make parental adjustments, we need not consider whether the district court properly found that appellant made only token efforts to be with her child. See NRS 128.105 (providing that, along with a finding that termination is in the child's best interest, the court must find at least one parental fault factor to warrant termination).

evidence supports the district court's findings regarding the child's best interest and that parental fault existed, we

ORDER the judgment of the district court AFFIRMED.

_____, J.
Hardesty

_____, J.
Douglas

_____, J.
Pickering

cc: Hon. Cynthia Dianne Steel, District Judge, Family Court Division
Special Public Defender
Clark County District Attorney/Juvenile Division
Legal Aid Center of Southern Nevada
The Eighth District Court Clerk
Legal Aid Center of Southern Nevada