IN THE SUPREME COURT OF THE STATE OF NEVADA

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

RICHARD G., JR.,
Appellant,
vs.
JEANETTE L.R.,
Respondent.

No. 55062

FILED

SEP 14 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
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; Robert Teuton, 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. Matter of Parental Rights as to D.R.H., 120 Nev. 422, 428, 92 P.3d 1230, 1234 (2004); NRS 128.105. Here, the district court determined that termination was in the child's best interest and found two grounds of parental fault: abandonment and neglect.

As for best interest, "[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" NRS 128.105 Here, the district court determined that it was in the child's best interest to terminate appellant's parental right based on the child's current stable living circumstances, appellant's minimal efforts to communicate or provide support for the child, and appellant's failure to re-establish visitation with the child when given an opportunity to do so.

Regarding parental fault, when a parent abandons or neglects a child, parental fault may be established. NRS 128.105(2)(a) and (b).

Under NRS 128.012(1), the term "abandonment of a child" is defined as "any conduct of one or both parents of a child which evinces a settled purpose on the part of one or both parents to forego all parental custody and relinquish all claims to the child." Intent is the decisive factor in abandonment and may be shown by the facts and circumstances. Smith v. Smith, 102 Nev. 263, 266, 720 P.2d 1219, 1221 (1986), overruled on other grounds by Matter of Parental Rights as to N.J., 116 Nev. 790, 8 P.3d 126 (2000). In concluding that appellant had abandoned the child, the district court reasoned that appellant had made only minimal efforts to communicate with the child. The record shows that appellant has not seen the child since 2005, and only recently initiated contact with the child.

The district court also found, by clear and convincing evidence, that appellant had neglected the child. Under NRS 128.105(2)(b), parental rights may be terminated for "[n]eglect of the child." NRS 128.014(2) defines "[n]eglected child" as a child "[w]hose parent, guardian or custodian neglects or refuses to provide proper or necessary subsistence, education, medical or surgical care, or other care necessary for his health, morals or well-being." The court found that appellant made little to no effort to provide support for the child.

In reaching its conclusions, the district court considered, in addition to the parties' pleadings, testimony and documentary evidence at the termination hearing. While we agree with appellant's assertion that there was also testimony presented asserting that he had not abandoned or neglected the child, this court defers to the district court regarding witness credibility and we will not reweigh evidence. See Castle v. Simmons, 120 Nev. 98, 103, 86 P.3d 1042, 1046 (2004).

Having reviewed the record, appellant's civil proper person appeal statement, and respondent's response, we conclude that substantial evidence supports the district court's order terminating appellant's parental rights. Accordingly, we

ORDER the judgment of the district court AFFIRMED.[1]

_____, J.
Hardesty

_____, J.
Douglas

_____, J.
Pickering

cc: Hon. Robert Teuton, District Judge, Family Court Division
The Eighth District Court Clerk
Richard G., Jr.
Black & LoBello

[1]To the extent that appellant makes an ineffective assistance of counsel claim, we hold that claim to be without merit, as appellant did not have a constitutional right to counsel at the termination hearing. See Matter of Parental Rights as to N.D.O., 121 Nev. 379, 384-86, 115 P.3d 223, 226-27 (2005).