

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE PARENTAL
RIGHTS AS TO G.N.M. AND G.L.M.,
MINORS.

No. 55233

FILED

APR 13 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

CLIFFORD M.,
Appellant,
vs.
STATE OF NEVADA DEPARTMENT
OF FAMILY SERVICES,
Respondent.

ORDER OF AFFIRMANCE

This is an appeal from a district court order terminating appellant's parental rights as to minor children. Eighth Judicial District Court, Family Court Division, Clark County; Cynthia Dianne Steel, Judge.

In order to terminate a parent's parental rights, a petitioner must prove by clear and convincing evidence that parental fault exists and that termination is in the children's best interests. NRS 128.090(2); NRS 128.105. Parental fault can be found if petitioner demonstrates, by clear and convincing evidence, that the parent has neglected the children or is unfit to care for the children. NRS 128.105(2)(b) and (c). In determining whether a parent is neglectful or unfit, the district court is required to consider a parent's felony conviction when the crime is of such a nature as to indicate the parent's unfitness "to provide adequate care and control to the extent necessary for the child[ren's] physical, mental or emotional health and development." NRS 128.106(6). When considering the children's best interests, the district court must consider their continuing need for "proper physical, mental and emotional growth and development."

NRS 128.005(2)(c). This court will uphold a district court's termination order if it is supported by substantial evidence. Matter of Parental Rights as to D.R.H., 120 Nev. 422, 428, 92 P.3d 1230, 1234 (2004).

Having considered the parties' appellate arguments, we conclude that substantial evidence supports the district court's findings that appellant is an unfit parent and that it is in the children's best interests to terminate appellant's parental rights. Regarding parental fault, the district court found that appellant had been convicted of murdering, in the first degree, the children's mother. Appellant was sentenced to serve 20 years to life in prison. Without relying solely on his incarceration, the district court found, based on the nature of his conviction and length of his sentence, that appellant was unfit to provide the care and control necessary for the children's mental or emotional health and development. See Matter of Parental Rights as to J.L.N., 118 Nev. 621, 628, 55 P.3d 955, 960 (2002) ("When considering a parent's incarceration in termination proceedings, the district court must consider the nature of the crime, the sentence imposed, who the crime was committed upon, the parent's conduct toward the child before and during incarceration, and the child's specific needs.").

As for the children's best interests, the district court found that appellant's act of murdering the children's mother was evidence of emotional abuse. Pursuant to his actions, the district court found that appellant had demonstrated an inability to understand the children's most basic needs by depriving them of their mother's love and affection. As further support for its decision, the district court found that based on the length of appellant's incarceration, he would be unable to provide for the children's ongoing physical, mental, and emotional needs.

Accordingly, because substantial evidence supports the district court's findings regarding parental fault and the children's best interests, we affirm the district court's order terminating appellant's parental rights.¹

It is so ORDERED.²

Cherry, J.
Cherry

Pickering, J.
Pickering

Hardesty, J.
Hardesty

cc: Hon. Cynthia Dianne Steel, District Judge, Family Court Division
The Bach Law Firm
Clark County District Attorney/Juvenile Division
Gregory Mills
Eighth District Court Clerk

¹Having considered appellant's remaining arguments, we conclude that they lack merit.

²In light of this order, we deny as moot attorney Jason Bach's motion to withdraw as appellant Clifford M.'s counsel of record.