IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF: MARY W., MOTHER

MARY W.,
Appellant,
vs.
CLARK COUNTY DEPARTMENT OF FAMILY SERVICES; F.M., A MINOR; AND M.A.M., A MINOR,
Respondents.

No. 88416

ORDER OF AFFIRMANCE

This is a pro se appeal from district court orders terminating appellant's parental rights and denying a post-judgment motion to set aside the termination order. Eighth Judicial District Court, Family Division, Clark County; Soonhee Bailey, Judge.

To terminate parental rights, the district court must find clear and convincing evidence that (1) at least one ground of parental fault exists and (2) termination is in the child's best interest. NRS 128.105(1); *In re Termination of Parental Rts. as to N.J.*, 116 Nev. 790, 800-01, 8 P.3d 126, 132-33 (2000). On appeal, this court reviews questions of law de novo and the district court's factual findings for substantial evidence. *In re Parental Rts. as to A.L.*, 130 Nev. 914, 918, 337 P.3d 758, 761 (2014).

Appellant Mary W. first asserts that she was denied due process and that the district court abused its discretion by denying her motion to set aside the order terminating her parental rights because she was not notified of the trial date. *See In re Kathrine Anne P.*, 140 Nev., Adv. Op. 37, 549 P.3d 478, 481 (2024) (explaining that this court reviews a motion to set aside an order for an abuse of discretion). The record, however, refutes this

assertion. Because Mary's address was uncertain, the trial notice was properly served through personal delivery to Mary's adult son and by publication. *See* NRS 128.060(2)(a) (providing that the nearest known relative of a party may be personally served with notice when the party's address is unknown); NRS 128.070 (providing for notice by publication when the party's address is unknown). Additionally, the court orally informed Mary of the trial date four times during a status hearing on November 28, 2023, and the trial date was written down and given to Mary. To the extent the November 22, 2023, report for permanency and placement review included the wrong date for the trial, that mistake does not negate the notice Mary later received. *See Callie v. Bowling*, 123 Nev. 181, 183, 160 P.3d 878, 879 (2007) (stating that procedural due process requires a party to have notice and an opportunity to be heard). Therefore, the district court did not abuse its discretion by denying the motion to set aside the termination order.

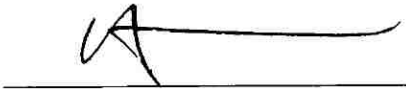
Mary next contends the children were improperly removed from her care because she requested a new caseworker. A child may be removed from a parent and placed in protective custody when "immediate action is necessary to protect the child from injury, abuse or neglect." NRS 432B.390(1)(b). The record shows that Mary was working with respondent Clark County Department of Family Services (DFS) after Mary acknowledged using illicit substances. The children were removed from Mary's care when they were found residing in unsafe living conditions, including broken glass and staples on the floor. Further, at the time of removal, Mary exhibited erratic and aggressive behavior. Thus, the record does not support Mary's argument.

Next, Mary contends the district court's findings of parental fault were not supported by substantial evidence. We disagree. A neglected child is one "[w]ho lacks the proper parental care by reason of the fault[s] or habits of his or her parent." NRS 128.014(1). An unfit parent is one who "by reason of the parent's fault or habit or conduct toward the child or other persons, fails to provide such child with proper care." NRS 128.018. Parental unfitness may be established when excessive use of controlled substances "renders the parent consistently unable to care for the child." NRS 128.106(1)(d). The record demonstrates Mary struggles with substance abuse, has refused to comply with drug test requests, and has not completed a substance abuse treatment program. Mary was presented with a case plan and did not substantially complete that case plan. Failure to comply with a case plan within six months is evidence of the parental-fault ground of failure of parental adjustment. NRS 128.109(1)(b). Additionally, Mary's noncompliance with the case plan supports the district court's finding that Mary only made token efforts to prevent neglect of the children and to avoid being an unfit parent. NRS 128.105(1)(b)(6). Thus, we conclude substantial evidence supports the district court's findings of parental fault.

Substantial evidence also supports the district court's finding that termination of Mary's parental rights was in the children's best interest. "The 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(1). The record demonstrates the children have been placed with their maternal grandmother since removal. The children are attached to the grandmother and are thriving in her care. Further, the grandmother is committed to adopting them.

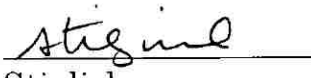
Having considered the parties' arguments and concluded that no relief is warranted, we

ORDER the judgment of the district court AFFIRMED.



_____, C.J.
Herndon

_____, J.
Bell



_____, J.
Stiglich

cc: Hon. Soonhee Bailey, District Judge, Family Division
Mary Heather Westfall
Attorney General/Carson City
Nevada Legal Services/Las Vegas
Legal Aid Center of Southern Nevada, Inc.
Clark County District Attorney/Juvenile Division
Clark County District Attorney's Office
Eighth District Court Clerk