

IN THE SUPREME COURT OF THE STATE OF NEVADA

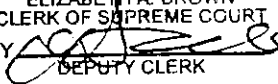
IN THE MATTER OF THE PARENTAL
RIGHTS AS TO: M.J., A MINOR

No. 88342

CLIFFORD ALLYN J.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

FILED

AUG 19 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK


ORDER VACATING JUDGMENT AND REMANDING


This is an appeal from a district court order terminating appellant's parental rights as to a minor child. Eighth Judicial District Court, Clark County; Cynthia N. Giuliani, Judge.


On appeal, appellant Clifford J. asserts the district court erred by not appointing him a guardian ad litem. At the trial on the motion to terminate Clifford's parental rights, Clifford's attorney withdrew from representation. But before doing so, the attorney stated she believed Clifford needed a guardian ad litem because he did not understand what was happening, the court process, or her role in that process. The district court then questioned Clifford about his understanding of why the child did not reside with him and asked him why he did not understand the case when he had been present at most of the hearings. The court ultimately stated, "I don't know that at this point that he's not competent enough. I just don't think he likes your answers or – or understands what – – what's going on here, not because we haven't explained to him." The court concluded that Clifford did not need a guardian ad litem and proceeded to trial with Clifford representing himself.

NRS 432B.46803(3) includes a list of factors the court must consider when determining whether a parent of a child in protective custody is incapacitated. Respondent concedes and the record shows that the district court did not specifically consider the factors outlined in NRS 432B.46803(3). And, upon an examination of the record, it appears the appointment of a guardian ad litem may have been appropriate. But, because the district court did not consider each of the NRS 432B.46803(3) factors, the record is incomplete and does not allow us to determine in the first instance that the appointment of a guardian ad litem was necessary under NRS 432B.46803. Because of the district court's error in failing to consider the NRS 432B.46803(3) factors, and in light of the potential due process violation in not appointing Clifford a guardian ad litem, we vacate the order terminating Clifford's parental rights. *See In re Two Minor Children*, 95 Nev. 225, 230, 592 P.2d 166, 169 (1979) (recognizing it is a due process violation to proceed with a trial when a defendant is incompetent to stand trial). On remand, the district court must consider the factors outlined in NRS 432B.46803(3) to determine whether Clifford is incapacitated and, if so, appoint a guardian ad litem before proceeding to trial on the motion to terminate Clifford's parental rights. Accordingly, we

ORDER the judgment of the district court VACATED AND REMAND this matter to the district court for proceedings consistent with this order.


_____, C.J.
Herndon


_____, J.
Bell


_____, J.
Stiglich

cc: Hon. Cynthia N. Giuliani, District Judge
The Grigsby Law Group
Attorney General/Carson City
Clark County District Attorney/Civil Division
Eighth District Court Clerk