

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE PARENTAL
RIGHTS AS TO T. R. S.

No. 40810

EVERETT C. S.,
Appellant,

vs.

THE STATE OF NEVADA
DEPARTMENT OF HUMAN
RESOURCES, WELFARE DIVISION,
Respondent.

FILED

MAR 05 2003

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order terminating appellant's parental rights.

Appellant contends that he did not receive proper notice of the termination proceedings. When a parent cannot, after due diligence, be located within the state, and an affidavit setting forth these facts is presented to the district court, the court may grant an order that service of notice of the termination hearing be done by publication.¹ Here, respondent State of Nevada, in its affidavit for service by publication, stated that it attempted to serve appellant notice of the proceedings at the Clark County Detention Center and at three separate residential locations, all to no avail.

On September 19, 2002, the district court granted the State's motion to serve notice by publication. The September 19 order directed the State to publish in a specific newspaper at least once a week for a four-

¹NRS 128.070(1).

week period.² The record reveals that the State followed the district court's September 19 order. Accordingly, we conclude that the State complied with the statutory requirements for notice.

In order to terminate parental rights, a petitioner must prove by clear and convincing evidence that termination is in the best interests of the child and must establish parental fault.³ When the record contains substantial evidence to support the district court's decision, this court will uphold the termination order, and will not substitute its own judgment for that of the district court.⁴ In the present case, the district court determined that it was in the child's best interest that appellant's parental rights be terminated. The district court further found by clear and convincing evidence that appellant had abandoned the child⁵ and that appellant was an unsuitable parent on the basis of failure of parental adjustment.⁶

Having reviewed the record, we conclude that the district court's decision is supported by substantial evidence. Accordingly, we

²See NRS 128.070(2) (stating that an order granting a motion to serve notice by publication "must direct the publication to be made in a newspaper, to be designated by the court, for a period of 4 weeks, and at least once a week during that time").

³See Matter of Parental Rights as to N.J., 116 Nev. 790, 8 P.3d 126 (2000); NRS 128.105.


⁴Matter of Parental Rights as to Carron, 114 Nev. 370, 374, 956 P.2d 785, 787 (1998), overruled on other grounds by N.J., 116 Nev. 790, 8 P.3d 126.


⁵See NRS 128.105(2)(a); NRS 128.012.

⁶See NRS 128.105(2)(d); NRS 128.0126.

ORDER the judgment of the district court AFFIRMED.⁷


_____, J.
Rose


_____, J.
Maupin


_____, J.
Gibbons

cc: Hon. Gerald W. Hardcastle, District Judge, Family Court Division
Attorney General Brian Sandoval/Las Vegas
Everett C. S.
Clark County Clerk

⁷Although appellant was not granted leave to file papers in proper person, see NRAP 46(b), we have considered the proper person documents received from appellant.

We note that appellant failed to pay the filing fee pursuant to NRS 2.250. This failure could constitute an independent basis for dismissing this appeal.