

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE PARENTAL
RIGHTS AS TO F. P., L. D., AND E. D.

No. 42450

JEANIE D.,
Appellant,
vs.
WASHOE COUNTY DEPARTMENT OF
SOCIAL SERVICES,
Respondent.

FILED

MAR 04 2004

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

ORDER OF AFFIRMANCE

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

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.¹ If substantial evidence in the record supports the district court's determination that clear and convincing evidence warrants termination, this court will uphold the termination order.² In the present case, the district court determined that it is in the children's best interests that appellant's parental rights be terminated. The district court also found by clear and convincing evidence parental fault on the grounds of unfitness, failure of parental adjustment, only token efforts, and risk of serious injury.

¹See Matter of Parental Rights as to N.J., 116 Nev. 790, 8 P.3d 126 (2000); NRS 128.105.

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

As for unfitness,³ a parent is unfit when by his or her own fault, habit, or conduct toward the child, the parent fails to provide the child with proper care, guidance, and support.⁴ Failure of parental adjustment occurs when a parent is unable, within a reasonable time, to correct the conduct that led to the child being placed outside the home.⁵ Failure of parental adjustment is established when a parent fails to comply with the case plan to reunite the family within six months after the child has been placed outside the home.⁶ Here, the district court found by clear and convincing evidence that appellant had, through her own fault and habit failed to provide care for the child. Moreover, the court found that the appellant had an approximate two-year opportunity to address her parenting difficulties, substance abuse, and medical conditions by complying with the reunification plan provided by the respondent, but that appellant failed to substantially comply with her case plan.

With respect to token efforts, under NRS 128.105(2)(f), parental fault may be establish based on only token efforts to (1) support or communicate with the child, (2) prevent neglect of the child, (3) avoid being an unfit parent, or (4) eliminating risk of serious physical, mental or emotional harm to the child. Moreover, under NRS 128.109(2), if a child has been in foster care for fourteen months of a twenty-month period, it is

³NRS 128.105(2)(c).

⁴NRS 128.018.

⁵NRS 128.0126.

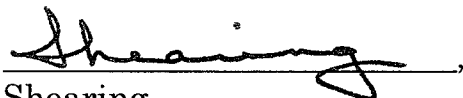
⁶NRS 128.109(1)(b).


presumed that the parent has made only token efforts to care for the child and that termination is in the child's best interest.⁷ The district court concluded that the appellant did not overcome the presumption as to token efforts.

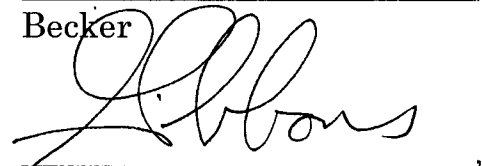
Finally, the district court found by clear and convincing evidence that the children were at serious risk of mental and emotional injuries by the appellant's chronic instability.⁸

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

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Shearing


_____, J.
Becker


_____, J.
Gibbons

cc: Hon. Deborah Schumacher, District Judge, Family Court Division
Washoe County District Attorney Richard A. Gammick
Jeanie D.
Washoe District Court Clerk

⁷NRS 128.105(2)(f).

⁸NRS 128.105(2)(e).