

In the Interest of S.R.R., 2015 WL 855751

- Decided March 2, 2015
- Opinion: Miller
- Concurrence: Doyle, Dillard

Posture:

Mother appeals from the juvenile court's termination of parental rights order.

Issue(s):

Was the evidence sufficient to support a termination of parental rights?

Holding:

Reversed. The evidence does not clearly and convincingly show that the mother is presently unfit or that the cause of the child's deprivation is likely to continue and cause serious harm.

Facts:

The mother suffers from several debilitating health problems including multiple sclerosis, diabetes, fibromyalgia, and lupus for which she is under continuous medical supervision and prescribed several medications to control symptoms. The child suffers from an enlarged heart, which required an extended stay in the hospital following his birth. Upon his release, S.R.R.'s mother placed him in the care of a friend with whom he lived until he was almost two years old, at which time DFCS removed him and the juvenile court found him to be deprived.

The termination of parental rights petition, filed approximately one year later, alleged that the mother's home was not suitable, that she was living with the putative father despite a history of domestic violence, and that she was supporting members of the putative father's family with her disability income. The evidence presented at trial, however, showed that the mother successfully completed most of her case plan goals, paid some child support, maintained a bond with the child through regular visitation, lived in stable housing with adequate space for the child, and was able to meet the child's needs with support from her disability income and supplemental employment. Furthermore, the evidence showed that the putative father and his family members had previously moved out of the mother's home.

Reasoning:

On appeal, the court views the evidence in the light most favorable to the juvenile court's disposition and determines whether any rational trier of fact could have found by clear and convincing evidence that the mother's right to custody should have been terminated. Citing *In the Interest of C.J.V.*, 323 Ga.App. 283 (2013), the court stated that it "will not sustain the termination of a mother's right to raise her child, based on either her poverty or her physical disabilities, when neither render her incapable of caring for her child."