

In the Interest of T.A., 2015 WL 1057888

- Decided March 11, 2015
- Opinion: McFadden
- Concurring Opinion: Andrews, Ray

Posture:

Mother appealed from termination of her parental rights.

Issue(s):

Was the evidence at trial sufficient to support the termination of parental rights?

Holding:

Affirmed. The trial court did not err in finding clear and convincing evidence, based on the mother's parental inability, that T.A.'s deprivation was likely to continue and that such deprivation would cause or was likely to cause serious physical, mental, or emotional harm.

Facts:

Shelter care was authorized based on an allegation that T.A.'s mother had abandoned the three year-old child with a friend. Probable cause found and temporary legal custody was awarded to DFCS. DFCS subsequently filed a deprivation petition, which the court granted based on reports that the mother had left T.A. with a friend overnight and had not returned, that she had physically abused T.A., and that she failed to keep him clean and provide food for him. The case plan required that the mother complete a parenting skills training program, cooperate with a parent aide, maintain regular visitation with T.A., participate in therapy, maintain stable housing and maintain stable income.

The mother completed the case plan with the exception of obtaining suitable housing large enough to accommodate her and her son. Her psychological evaluation revealed that she has an IQ of 56 and suffers from mild depression. The psychologist testified that the mother's limited cognitive abilities presented a major risk factor in her ability to safely parent a child, and as a result, would need full-time in-home support to raise T.A.. T.A. was evaluated as having symptoms along the autism spectrum, including that he has issues with verbal and non-verbal communication, engages in repetitive play, has frequent temper tantrums, and demonstrates an abnormal lack of fear. He requires a home with structure, routine, and consistency, which, according to the psychiatrist, would be very difficult for a parent with a low IQ to provide. The parent aide provided testimony that the mother had not demonstrated that she could parent independently and could not provide the support that T.A. would need if they were reunified.

DFCS filed a petition for termination of parental rights based on these facts, and the juvenile court entered an order terminating the mother's parental rights.

Reasoning:

On appeal, the court reviews the evidence in the light most favorable to the juvenile court's ruling to determine whether any rational trier of fact could have found by clear

and convincing evidence that the parent's rights should have been terminated. The court defers to the juvenile court's fact finding, weighing of evidence, and credibility determinations. The court's analysis relied on the former OCGA § 15-11-94. The mother did not challenge the finding that T.A. was deprived because of a lack of proper parental care and supervision, nor the finding that her failure to provide adequate supervision and her physical abuse were the causes of T.A.'s deprivation. She does contend, however, that the juvenile court erred by finding that the deprivation would continue, arguing that she completed her case plan and DFCS failed to provide her with specialized training to help her understand and meet T.A.'s special needs. Further, she contends that the trial court erred in finding that T.A. was suffering harm or would suffer harm if her rights were not terminated.

Cause of deprivation likely to continue

The juvenile court's termination decision was not based on her failure to meet her case plan goals. Rather, her significant cognitive deficits left her unable to apply what she had learned so that she could independently parent T.A. She could not point to any evidence that the specialized training would have enabled her to adequately parent T.A. given his disability. DFCS is not obligated to provide full-time, in-home support. Instead, citing to *In the Interest of A.R.*, 302 Ga.App. 702, 710(1)(c) (2010), the court recognized that "[T]he test in determining termination of parental rights, however, is whether the mother, *ultimately standing alone*, is capable of mastering and utilizing the necessary skills to meet her parenting obligations." The juvenile court was authorized to consider the mother's past conduct and to infer from the evidence that the deprivation was likely to continue if T.A. and his mother were reunited.

Likelihood of harm

T.A. had been in the care of DFCS for more than three years, and the court is entitled to consider the child's need for permanency and emotional stability in determining the likelihood of harm. In the present case, the juvenile court found, based on expert testimony, that a prolonged stay in foster care would be harmful to T.A. in that he needed stability to develop healthy attachments. The court further found that the mother's visits were detrimental to T.A., who displayed regressive behavior after seeing her.