

Circuit Court for Anne Arundel County
Case No. C-02-JV-17-000337

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 358

September Term, 2018

IN RE: ADOPTION/GUARDIANSHIP
OF D.W.

Wright,
Graeff,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Moylan, J.

Filed: November 1, 2018

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Following a full hearing on March 29, 2018, in the Circuit Court for Anne Arundel County, sitting as a juvenile court, Judge Stacy W. McCormack terminated the parental rights of the appellant, Ms. V., to her son D.W. and granted the petition of the appellee, the Anne Arundel County Department of Social Services (“the Department”) to be awarded guardianship with the right to consent to adoption. Ms. V. appeals that ruling, but this is an open and shut case.

D.W. was born on July 27, 2015, and is now three years and three months old. D.W. has been in the temporary care and custody of the Department since February 25, 2016, when he was seven months old. On that day, D.W. was placed into foster care at the home of Mr. and Mrs. B. and has remained there ever since without disruption. Mr. and Mrs. B. are committed to caring for D.W. permanently and to adopting him if and when he is available for adoption.

On May 3, 2016, D.W. was adjudicated CINA (a Child in Need of Assistance). The circumstances leading up to the placement of D.W. into the custody of the Department were bizarre. Ms. V. and the child’s father, M.W., were no longer in any relationship with each other when D.W. was born in July of 2015. Ms. V. was unable to care for D.W. and, when D.W. was less than two months old, turned over physical custody of the baby to the father, M.W., and his girlfriend, J.P. They, in turn, turned over physical custody to M.P., the mother of J.P., as early as Christmas of 2015 when D.W. was five months of age. When M.P., the mother of the girlfriend, concluded that she could no longer care for D.W., she dropped him off at a fire station on February 19, 2016. It was as a result of his being

deposited at the fire station that the Department assumed custody of D.W. as of February 25, 2016. Ms. V. herself has not been involved in caring for D.W. since September of 2015 when he was two months old.

Ms. V., the mother, is now 21 years of age. She dropped out of school after the Ninth Grade. She has two other children, both by D.W.'s biological father, M.W. The older of those other children is cared for by M.W.'s mother. That paternal grandmother indicated that she would be unable to care for D.W. because "it would be overwhelming." The second of Ms. V.'s other children is being cared for by a cousin of the biological father. That cousin also indicated that she would be unable to care for D.W.

Ms. V. herself has a long history of abusing illegal substances and has an admitted "drug problem." Her drug of choice was Percocet. On September 14, 2015, Ms. V. received in the Circuit Court for Anne Arundel County a six-month suspended sentence with one year of supervised probation for stealing a credit card. She was placed on but failed to complete two separate drug treatment programs. On October 14, 2016, Ms. V. was also charged in Anne Arundel County with possession of a controlled dangerous substance other than marijuana. A bench warrant for her was issued on July 21, 2017, for Failure to Appear for a hearing on that charge.

Since February 2017, Ms. V. has been incarcerated in the federal prison system. On December 15, 2017, she entered guilty pleas to two charges of human trafficking. In any event, Ms. V. has not seen D.W. for almost three years, except for a single visit on April

27, 2016. All of the Department's other attempts to arrange visits were not accepted by Ms. V.

On the affirmative side of D.W.'s life, his experience with his foster parents has been solidly and consistently positive. He has been with his foster parents since he was seven months old. He turned three this past July. Mrs. B. describes him as very intelligent. He enjoys interacting with other children and with the extended family of his foster parents. The B.'s are very favorably disposed toward adopting D.W. The B.'s, moreover, have indicated that they would be very receptive to D.W.'s being able to know and maintain contact with Ms. V. and with his natural siblings.

Ms. V. herself, who at the time of the TPR hearing was still facing sentence in federal court, does not claim that she is able to assume custody of D.W. M.W., the biological father, has consented to the termination of his parental rights by operation of law by virtue of his failure to file any notice of objection. Ms. V.'s objection to the TPR is based solely on the claim that D.W. should remain with his family, to wit, with his maternal grandmother. That maternal grandmother, Marjorie V., had earlier indicated that she could not care for D.W. because her home was overcrowded.

She had also had, moreover, prior investigation of her home by child protective services because she had individuals with criminal histories living in her home. D.W. does not even know his maternal grandmother. Marjorie V. has never visited D.W. nor requested a visit with him nor so much as inquired about his welfare during the entire time that he has been in foster care. Although Marjorie V. was advised of the date of the guardianship

hearing, she did not attend. Ms. V.'s promoting of her mother as a candidate for the guardianship is no more efficacious than would have been her promoting of herself.

In a painstakingly thorough and meticulously detailed opinion from the bench at the conclusion of the March 29, 2018, hearing, later memorialized in her written Findings of Fact, Conclusions of Law and Guardianship Order on April 30, 2018, Judge McCormack, in the course of 18 prescribed findings, specifically found as follows:

5. That this Court hereby considers the results of the parent's effort to adjust the parent's circumstances, condition or conduct to make it in the child's best interests for the child to be returned to the parent's home, including: the extent to which the child's parent has maintained regular contact with the child. That this Court finds further that the parent has not made any effort to adjust her circumstances that would make it in the best interest of the child to be returned to the parent because the parent has not maintained regular contact with the child. The mother had a single visit with the child on April 27, 2016. The mother never asked about the child or reached out to the child or the child's foster parents even though she was provided the opportunity to do so.

6. That this Court hereby finds that the mother has not contributed at all financially to the child's care and support notwithstanding the fact that there is a current child support order in place.

7. That this Court hereby finds that there has not been any evidence presented that the mother has a disability that makes her consistently unable to care for the child's immediate and ongoing physical and psychological needs for long periods of time.

Judge McCormack also made specific findings with respect to the foster parents:

12. That this Court hereby finds that the child has adjusted to the community in that he is living in and is doing extremely well in the care of the [B.] family.

13. That this Court hereby finds that the child has adjusted to the home that he has been placed in. The child has been placed in this foster home since February 25, 2016 and he has been observed to be happy and to have a loving

relationship with his foster mother and foster father both of whom are committed to providing for him permanently.

14. That this Court hereby finds that the child has adjusted to his placement, which is a foster home. The child has a strong bond with the foster parents and he participates in activities with the foster parents' family.

In complete compliance with all applicable legal standards, Judge McCormack then concluded:

Having, therefore, made all of the above findings, this Court finds by clear and convincing evidence that it is in the best interest of [D.W.] to terminate the parental rights of [Ms. V.] and [M.W.], it is this 30th day of April 2018, by the Circuit Court for Anne Arundel County,

ORDERED, that the Director is hereby granted guardianship of [D.W.], with the right, power and authority to consent to his adoption or to make arrangements for his long-term care short of adoption with the further right to consent to the change of name of [D.W.], when it is deemed necessary or desirable[.]

In this particular case, Judge McCormack's decision is not even being seriously challenged. The "argument" portion of the appellant's brief runs for five pages. It consists entirely of citing and quoting the prevailing legal standards in the abstract. A Termination of Parental Rights is, indeed, an extremely serious decision with grave consequences. There is a high bar that must be satisfied before such a decision is made.

Nowhere, however, in these five pages of abstract law is there a single sentence challenging Judge McCormack's decision in this case. There is not a glimmer of a suggestion that a single fact was erroneously decided. There was no factfinding that was contested. All parties agreed on a stipulated set of facts. There was, moreover, no challenge

with respect to any applicable law. There was finally no murmur of protest that Judge McCormack had in any way abused her discretion.

Accordingly, it is but to state the obvious to say that we affirm the court below.

**JUDGMENT AFFIRMED; COSTS TO BE
PAID BY THE APPELLANT.**