

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE PARENTAL
RIGHTS AS TO: T.L., A MINOR CHILD,

Electronically Filed
Jul 17 2017 10:44 a.m.
No. 72563 Elizabeth A. Brown
Clerk of Supreme Court

TONYA MEREDITH,
Appellant,

vs.

WASHOE COUNTY DEPARTMENT OF
SOCIAL SERVICES,
Respondent.

Appeal from an Order Terminating Parental Rights in FV15-03927
The Second Judicial District Court of the State of Nevada
Honorable Egan Walker, District Judge, Family Division

APPELLANT'S REPLY BRIEF

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ARGUMENT IN REPLY

Tonya Meredith has standing to challenge the family court's placement order in this direct appeal; and this Court should reverse

The question presented in this direct appeal does not exist in a vacuum. The challenged family court order—Order After Placement Hearing (1JA 39-42)—was the subject of Ms. Meredith's Petition for Writ of Mandamus filed in Supreme Court Docket Number 70931, which was summarily denied by a panel of this Court. See 1JA 44-45 (Order Denying Petition for Writ of Mandamus). There Ms. Meredith challenged the district court's placement order of her son Tyler on the same grounds as are raised in this direct appeal. The basis of the panel's writ denial was the existence of Ms. Meredith's right to a direct appeal from an order terminating her parental rights to her son.

Specifically, a panel of this Court said:

Because [Ms. Meredith] may appeal from an order terminating her parental rights, she has a plain, speedy, and adequate remedy at law and extraordinary relief is unwarranted here.

1JA 44 (citation omitted).¹

¹ A "Notice in Lieu of Remittitur" was filed on October 13, 2016.

In the family court Ms. Meredith stipulated to the termination of her parental rights. 1JA 11-13 (Stipulation to Relinquish Parental Rights; Convert Trial to Placement Hearing). Her interest is, and has been, the placement of Tyler with her relatives in California instead of into a foster family. At an uncontested termination of parental rights hearing held on January 23, 2017, counsel for Ms. Meredith—who was present—reiterated that her relatives were “ready, willing, and able to be an alternative placement for Tyler.” 1JA 62. Nonetheless, the family court did not disturb its earlier placement order. Nor did the family court augment it with “written factual findings, both with respect to credibility determinations as well as evaluations of the child’s best interest,” which must be made. *Clark County Dist. Att’y v. Eighth Judicial Dist. Court*, 123 Nev. 337, 349, 167 P.3d 922, 929 (2007).²

On January 30, 2017, the Washoe County District Attorney’s Office filed a Notice of Entry of the family court’s termination order, 1JA 69-74, and on March 1, 2017, Ms. Meredith filed a timely notice of

² The termination order is also silent on these points, other than to vest “custody and control” of Tyler to WCDSS with the “authority to place [Tyler] for, and consent to his adoption.” 1JA 68.

appeal, 1JA 75-76, giving form to the relief a panel of this Court deemed appropriate in its order denying Ms. Meredith's writ petition.

Washoe County Department of Social Services (WCDSS) now takes the position that because Ms. Meredith is not challenging the termination of her parental rights—a result to which she stipulated—she has no standing to challenge the earlier placement order. This Court should not agree. If the Court agreed with WCDSS, then the “wonderland”³ result for Ms. Meredith is that she is without a remedy: This Court says no to a writ petition challenging a placement order because she has a right to appeal from a parental rights termination order; but then says no to relief on direct appeal (from that order on the same grounds), ostensibly because her parental rights have been terminated.

This Court should not embrace the argument advanced by WCDSS. Rather, this Court should proceed to the merit arguments advanced by the parties and decide this appeal. On that point, Ms. Meredith stands by her arguments in the opening brief. While her first cousin, Ms. Brown, “is not an automatic placement,” Respondent's

³ Or maybe “*Kafkaesque*.” Merriam-Webster's Collegiate Dictionary (11 ed. 2012) 680.

Answering Brief at 12, she was an appropriate placement. WCDSS argues that Ms. Meredith should be faulted in not bringing Ms. Brown to its attention earlier. The record however suggests that after WCDSS had placed Tyler in a foster family, it showed no interest in any other result than *that* placement. The family court essentially, without findings of fact or an analysis of the best interest standard, stamped its approval on the decision by WCDSS. That abuse of discretion is the subject of this appeal.

CONCLUSION

This Court should reverse the district court's placement order and remand for new hearings on Tyler's placement under NRS 432B.550.

DATED this 15th day of July 2017.

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CERTIFICATE OF COMPLIANCE

1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because: This brief has been prepared in a proportionally spaced typeface using Century in 14-point font.

2. I further certify that this brief complies with the page- or type-volume limitations of NRAP 32(a)(7) because, even including the parts of the brief though exempted by NRAP 32(a)(7)(C), it is proportionately spaced, has a typeface of 14 points and contains a total of 1,100 words. NRAP 32(a) (7) (A) (i), (ii).

3. Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page of the transcript or appendix where the matter relied upon is to be found. I understand that I may be subject to sanctions in the event that the

accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 15th day of July 2017.

/s/ John Reese Petty

JOHN REESE PETTY

Chief Deputy, Nevada State Bar No.10

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 15th day of July 2017. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Jeffrey Martin, Chief Deputy District Attorney
Washoe County District Attorney's Office

I further certify that I served a copy of this document by providing a copy to:

Tonya Meredith.

John Reese Petty
Washoe County Public Defender's Office