

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE PARENTAL  
RIGHTS AS TO P.C.L.H.

No. 48863

DONALD E. H., A/K/A DENVER B.,  
Appellant,  
vs.  
CLARK COUNTY DEPARTMENT OF  
FAMILY SERVICES,  
Respondent.

FILED

MAY 14 2007

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. Eighth Judicial District Court, Family Court Division, Clark County; Cheryl B. Moss, Judge.

In order to terminate parental rights, a petitioner must prove by clear and convincing evidence that termination is in the children's best interests and that parental fault exists.<sup>1</sup> "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."<sup>2</sup> In the present case, the district court determined that it is in the child's best interests that appellant's parental rights be

<sup>1</sup>See Matter of Parental Rights as to D.R.H., 120 Nev. 422, 428, 92 P.3d 1230, 1234 (2004); NRS 128.105.

<sup>2</sup>Matter of D.R.H., 120 Nev. at 428, 92 P.3d at 1234.

terminated. The district court also found by clear and convincing evidence appellant's unfitness, failure of parental adjustment, and only token efforts.

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.<sup>3</sup> Failure of parental adjustment<sup>4</sup> occurs when a parent is unable or unwilling, within a reasonable time, to substantially correct the conduct that led to the child being placed outside the home.<sup>5</sup> Evidence of failure of parental adjustment is established by the parent's failure to comply with the case plan to reunite the family within six months after the child has been placed outside the home.<sup>6</sup> With respect to token efforts, under NRS 128.105(2)(f), parental fault may be established 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) eliminate the risk of serious physical, mental or emotional harm to the child. Finally, a district court must consider a parent's incarceration in determining whether termination is proper.<sup>7</sup> Incarceration alone, however, does not establish parental fault as a matter of law.<sup>8</sup>

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<sup>3</sup>NRS 128.105(2)(c); NRS 128.018.

<sup>4</sup>NRS 128.105(2)(d).

<sup>5</sup>NRS 128.0126.

<sup>6</sup>NRS 128.109(1)(b).


<sup>7</sup>Matter of Parental Rights as to J.L.N., 118 Nev. 621, 55 P.3d 955 (2002).

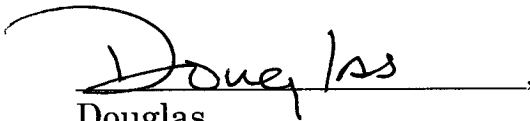
<sup>8</sup>Id. at 628, 55 P.3d at 959-60.

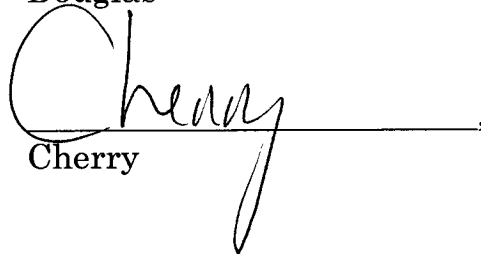
Here, the district court found that appellant consistently refused to submit to drug testing, failed to verify his employment and housing, did not complete parenting classes, did not visit the child regularly, and continued illegal and criminal activities.

Having reviewed appellant's civil appeal statement and the record, we conclude that substantial evidence supports the district court's determination that respondent established by clear and convincing evidence that that termination was warranted. Accordingly, we

ORDER the judgment of the district court ~~AFFIRMED~~.

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Cherry

cc: Hon. Cheryl B. Moss, District Judge, Family Court Division  
Donald E. H.  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger/Juvenile Division  
Eighth District Court Clerk