

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE PARENTAL
RIGHTS AS TO C.R.R. AND A.D.R.

GUADALUPE R.,
Appellant,
vs.
LINDA B.,
Respondent.

No. 39979

FILED

APR 08 2003

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is a proper person appeal from a district court order granting a default judgment terminating the parental rights of appellant Guadalupe R.¹

On April 3, 2002, respondent Linda B. filed a petition to terminate the parental rights of Guadalupe as to his two children. At the time, Guadalupe was incarcerated in Lovelock Correctional Center. Proceeding in proper person, Guadalupe submitted several motions to the district court. Many of Guadalupe's motions were not timely stamped received or filed and one of the motions was returned to Guadalupe. Guadalupe did not make a court appearance, did not file an answer to the petition to terminate his parental rights, and was not appointed counsel despite requesting appointment of counsel twice. However, on June 20,

¹Guadalupe also appeals the August 19, 2002 minute order that removed his NRCP 59(a) and NRCP 60(b) motions from the district court calendar. However, this court does not have jurisdiction over this portion of the appeal. See Rust. v. Clark Cty. School District, 103 Nev. 686, 689, 747 P.2d 1380, 1382 (1987) (stating that no appeal may be taken from a minute order, and a notice of appeal filed before the entry of a formal written order is of no effect); see also NRAP 4(a)(1).

2002, the district court granted a default judgment terminating Guadalupe's parental rights. Ultimately, on July 17, 2002, Guadalupe gave the law library supervisor a notice of appeal, which was filed July 23, 2002.

This court ordered Linda to show cause as to why the district court's order should not be reversed and remanded because the district court did not rule on Guadalupe's requests for counsel. Linda responded with several arguments, however, all are without merit.

The parent-child relationship is a fundamental interest.² This court has equated the termination of parental rights to "imposition of a civil death penalty."³ Therefore, on appeal, this court closely scrutinizes the termination of parental rights.⁴ Prior to the termination of Guadalupe's parental rights, he submitted several motions to the district court. The clerk of the district court failed to keep an accurate record of Guadalupe's case,⁵ wrongfully returned one of Guadalupe's motions,⁶ and

²Matter of Parental Rights as to Daniels, 114 Nev. 81, 87, 953 P.2d 1, 5 (1998), overruled on other grounds by Matter of Parental Rights as to N.J., 116 Nev. 790, 8 P.3d 126 (2000).

³Drury v. Lang, 105 Nev. 430, 433, 776 P.2d 843, 845 (1989).

⁴Matter of Parental Rights as to Bow, 113 Nev. 141, 148, 930 P.2d 1128, 1132 (1997), overruled on other grounds by Parental Rights as to N.J., 116 Nev. 790, 8 P.3d 126; see also Smith v. Smith, 102 Nev. 263, 266, 720 P.2d 1219, 1220 (1986), overruled on other grounds by N.J., 116 Nev. 790, 8 P.3d 126.

⁵See Donoho v. District Court, 108 Nev. 1027, 1029-30, 842 P.2d 731, 733 (1992) (holding that the clerk of the district court has "a duty to keep an accurate record of [cases] pending before the district court").

failed to properly stamp several of Guadalupe's motions as received and filed.⁷

Additionally, twice, Guadalupe requested the appointment of counsel. The district court never ruled on either of Guadalupe's requests. This court has indicated that in parental termination proceedings due process requires parents receive: "(1) a clear and definite statement of the allegations of the petition; (2) notice of the hearing and the opportunity to be heard or defend; and (3) the right to counsel."⁸ Further, this court has held that the judicial policy favoring deciding cases on the merits is heightened in the context of petitions to terminate parental rights.⁹ At a minimum, the district court should have ruled on Guadalupe's requests for counsel.

Considering the cumulative effect of the district court clerk's failure to file Guadalupe's motions and the district court's refusal to rule on Guadalupe's requests for appointment of counsel, Guadalupe was not

... continued

⁶Whitman v. Whitman, 108 Nev. 949, 952, 840 P.2d 1232, 1233-34 (1992) (holding that if a party submits a document that the clerk is unable to file, the clerk should retain the document in the court records and inform the party by letter of the deficiency in the document).

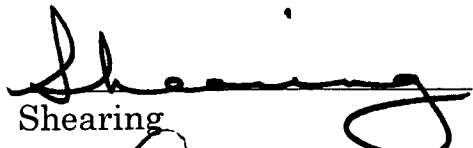
⁷Sullivan v. District Court, 111 Nev. 1367, 1372, 904 P.2d 1039, 1042 (1995) (holding that the clerk of the district court has a duty to clearly stamp the date on which the court receives every document submitted for filing regardless of whether the document is, in fact, filed).

⁸Daniels, 114 Nev. at 88, 953 P.2d at 5.

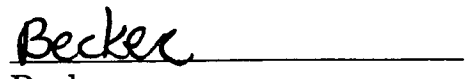
⁹See Bauwens v. Evans, 109 Nev. 537, 539, 853 P.2d 121, 122 (1993), overruled on other grounds by Epstein v. Epstein, 113 Nev. 1401, 950 P.2d 771 (1997).

afforded an opportunity to be heard or defend his fundamental right to the parent-child relationship.¹⁰ Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.

 J.
Shearing

 J.
Leavitt

 J.
Becker

cc: Hon. Cheryl B. Moss, District Judge,
Family Court Division
Guadalupe R.
Ellsworth Moody & Bennion Chtd
Clark County Clerk

¹⁰Daniels, 114 Nev. at 87-88, 953 P.2d at 5.