

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**IN THE INTEREST OF: B.J.H., JR. &
M.R.H.**

JUVENILE OFFICER

MISSOURI CHILDREN'S DIVISION

v.

B.J.H., SR. (FATHER)

RESPONDENTS,

RESPONDENT,

RESPONDENT,

APPELLANT.

DOCKET NUMBER WD73717 Consolidated with WD73755

DATE: January 10, 2012

Appeal From:

Miller County Circuit Court

The Honorable G. Stanley Moore, Judge

Appellate Judges:

Division Two: Mark D. Pfeiffer, Presiding Judge, Victor C. Howard, Judge and Cynthia L. Martin, Judge

Attorneys:

Robert J. Seek, Eldon, MO, for respondent Juvenile Officer.

Gerard "Jay" Harms, Jr., Osage Beach, MO, Guardian Ad Litem.

J. Aaron Ellsworth, Lake Ozark, MO, for appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

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**JUVENILE OFFICER,
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No. WD73717 Consolidated with WD73755

Miller County

Before Division Two: Mark D. Pfeiffer, Presiding Judge, Victor C. Howard, Judge and
Cynthia L. Martin, Judge

B.J.H., Sr. ("Father") appeals from the trial court's judgments terminating his parental rights to his son, B.J.H., Jr. ("Son"), and his daughter, M.R.H. ("Daughter"). Father argues that the trial court erred in finding that there was a statutory ground for terminating his parental rights and in finding that termination of his parental rights was in the best interest of Son and Daughter.

AFFIRMED.

Division Two holds:

(1) There was clear, cogent, and convincing evidence to support the trial court's conclusion that abandonment, neglect, and failure to rectify were three, separate statutory bases for terminating Father's parental rights. With respect to abandonment, the evidence presented at trial indicated that Father failed to pay child support without good cause for the preceding six months and that Father's visitation in the preceding six months was merely a "token gesture" to which the trial court did not have to give effect. With respect to neglect, the evidence presented at trial established that Father's failure to visit Son and Daughter and his failure to provide a safe home had a negative impact on the children, that his perpetual failure to visit Son and Daughter and failure to provide a safe home was severe enough to constitute neglect, and that his failure to utilize the resources provided by the Children's Division demonstrated a likelihood of future harm to Son and Daughter. With respect to failure to rectify, the evidence presented at trial indicated that, while Son and Daughter were in foster care for more than a year, Father failed to utilize the resources provided by the Children's Division to improve his parenting skills and to provide a suitable, safe, and stable home for Son and Daughter.

(2) The juvenile officer succeeded in proving, by a preponderance of the evidence, that terminating Father's parental rights was in the best interest of Son and Daughter. Section 211.447.7 requires that the trial court make findings on the seven factors that relate to the best interest of the child. The trial court's findings with respect to those seven factors were similar to

the trial court's findings in favor of abandonment, neglect, and failure to rectify. Because the burden of proof for the best interest of the child determination is less than the burden of proof for finding a statutory basis for termination, the trial court's findings are necessarily adequate.

Opinion by Cynthia L. Martin, Judge

January 10, 2012

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