

No. 27659-7-III  
No. 27660-1-III

Kulik, C.J. (dissenting) — In my view, the circumstances presented in the record and in the lengthy and detailed findings of fact demonstrate that the trial judge intended to do exactly what he did: conclude that the mother’s rights should be terminated because of her current parental unfitness. He just did not use those precise words. Therefore, I respectfully dissent and, rather than disrupt these children who have been in foster care for over five years, I would remand to the trial court for clarification of its termination findings following our recent Supreme Court’s decision in *In re Welfare of A.B.*, 168 Wn.2d 908, 232 P.3d 1104 (2010).

These children were found dependent in 2005 based on the mother’s domestic violence, child neglect, mental illness, methamphetamine and other drug use. About one year later, she tested positive for methamphetamine and marijuana while she was eight months’ pregnant with a third child. And she continued to be unable to parent A.G. and L.S. despite many services.

The trial judge found by clear, cogent, and convincing evidence all of the six factors required by RCW 13.34.180(1). He then concluded that the children's best interests were served by ordering termination of the parental relationship. He candidly and fairly noted in the findings that the mother had made some improvement but not significant enough to allow her to parent A.G. and L.S.

The trial court followed the statutory scheme. In finding of fact P, the court specifically found that the mother's problems, including hallucinations and mental illness "need to be remedied before [the children] can be returned to their mother." A.G. Clerk's Papers (CP) at 52. Significantly, the court found that there was "little likelihood that conditions will be remedied so that [the children] can be returned to their mother in the near future." A.G. CP at 49. Taken together, this court can clearly imply current parental unfitness as required by the decision in *A.B.*

This court may take any action "as the merits of the case and the interest of justice may require." RAP 12.2. I would remand for the trial court to clarify its intention in light of *A.B.*

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Kulik, C.J.