

Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2001-485

MARCH TERM, 2002

In re J.C., Juvenile	}	
	}	APPEALED FROM:
	}	
	}	Chittenden Family Court
	}	
	}	DOCKET NO. 298-5-00
	}	Cnjv
	}	
	}	Trial Judge: Ben W. Joseph
	}	

In the above-entitled cause, the Clerk will enter:

Father appeals from a family court order terminating his parental rights to the minor J.C. He contends the court erred in failing to make findings concerning the parental fitness of father's sisters. We affirm.

J.C., who was born in July 1999, and his brother T.C., who was born in January 1994, came into SRS custody in May 2000. In August, they were adjudicated CHINS and placed together in a foster home. Their mother voluntarily relinquished her parental rights prior to these proceedings. T.C.'s father also voluntarily relinquished his parental rights.

In June 2001, J.C.'s father, who had been incarcerated since January 2000, moved to transfer custody of J.C. to one of his two sisters, the boy's paternal aunts. Following a hearing on June 20, 2001, the court (Judge Crucitti) issued a written decision denying the motion. In so ruling, the court noted that father had twice been convicted of domestic assault on the child's mother, and had also been convicted of cruelty to a child; the victim of that offense was J.C. The court found that neither of father's sisters had any significant relationship with J.C.; that his sister V.P. had six children between the ages of two and nine and received substantial home services through the Baird Center; and that his sister T.E. had two children of her own and no permanent residence until recently. The court also was concerned that, if J.C. were placed with either sister, father could have unmonitored access to and control over the child. The court was also concerned about separating J.C. from his half brother, T.C., with whom he has a very close sibling relationship.

Following the hearing, the court (Judge Joseph) held a second hearing on SRS's motion to terminate father's parental rights. In October 2001, the court issued a written decision, granting the petition. The court reviewed the circumstances of father's criminal assaults on mother and the minor, noted that father had committed a further assault in prison, and that he was no longer eligible to participate in the DOC violent offender program. The court also found that since his incarceration, father has not had contact with J.C., and that father had indicated he did not intend to resume his parental responsibilities when released from prison. The court reviewed and adopted the findings of Judge Crucitti in the earlier decision denying father's motion to transfer custody to father's sisters. Finally, the court noted that J.C. was very closely bonded to his older brother, T.C., and that both boys had thrived in the home of their foster parents, who wished to adopt. Accordingly, the court concluded that father would not be able to resume his parental responsibilities within a reasonable period of time, and that granting the petition to terminate of parental rights was in the best interests of the minor. This appeal followed.

Father does not dispute the court's finding that he was patently unfit to assume parental responsibilities. Rather, his sole

contention on appeal is that the court erred in concluding that he would not be able to resume parental responsibilities within a reasonable period of time without making the foundational finding that neither of father's sisters was fit to assume parental responsibilities. Father cites no authority for the proposition that a parent's ability to resume parental responsibilities may be measured by the availability of a family member to assume parenting responsibilities. In re G.C., 170 Vt. 329, 333 (2000), on which father relies, held only "that the use of the term 'parental care' in [the CHINS statute] does not compel a CHINS adjudication whenever incapacitated parents leave their children with relatives or others to provide 'parental' care during the period of incapacitation." (emphasis in original). Such temporary arrangements have no relation to the very different question of a parent's ability to resume parental responsibilities within a reasonable period of time in a permanency placement proceeding. Although a court may consider other placements, such as a legal guardianship, there is no contention here that the court erred in failing to consider this alternative. Accordingly, we discern no error.

Affirmed.

BY THE COURT:

Jeffrey L. Amestoy, Chief Justice

John A. Dooley, Associate Justice

Denise R. Johnson, Associate Justice