

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

**ENTRY ORDER**

SUPREME COURT DOCKET NO. 2003-090

JUNE TERM, 2003

In re B.P., Juvenile

}	APPEALED FROM:
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}	Caledonia Family Court
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}	DOCKET NO. 103-12-01 Cajv
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}	Trial Judge: Mark J. Keller
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}	

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

Father appeals the family court's order terminating his parental rights with respect to his son, B.P. We affirm.

B.P. was born in September 1995. His mother, who has voluntarily relinquished her parental rights, was a live-in housekeeper for father and father's wife when B.P. was born. A few months after B.P.'s birth, his mother moved next door to father and worked in father's business. During the next two years, father was able to have daily contact with his son while concealing from his family his relationship to the boy. In September 1997, father fled to England with B.P. and his mother to avoid incarceration on charges that he was a convicted felon in possession of firearms. In June 1998, father was arrested in England on credit card fraud charges and immigration violations. B.P. and his mother were ordered to return to the United States. Father remained incarcerated in England until December 1998, when he was deported and turned over to United States authorities. Once back in the United States, father was convicted of illegal possession of firearms, bail jumping, and welfare fraud. He was released from prison to a halfway house in August 2002, but was returned to jail after violating several of the house rules. Father told the family court that he would be released from prison in January 2003, but the court was unable to independently verify this fact, and was unsure what, if any, conditions of release would be imposed once father was released.

Meanwhile, the period from June 1998 to December 2001 was one of turmoil for B.P. He and his mother lived in fourteen different locations in at least three different states, until his mother abandoned him in the fall of 2001. In December 2001, B.P. was found to be a child in need of care or supervision (CHINS) and placed with a foster family. The foster parents had difficulty dealing with B.P.'s significant emotional problems, and in August 2002 the boy was placed in the Brookhaven residential school, where he was diagnosed with oppositional defiance behavior, attention deficit disorder, and attachment disorder. The foster family continued to work with the Brookhaven staff in the hopes of learning how to provide for his needs so that the boy could be returned to their home. Eventually, the Department of Social and Rehabilitation Services (SRS) sought termination of father's parental rights, and a termination hearing was held in December 2002. Following the hearing, the family court granted SRS's petition. Father appeals, arguing that the court acted contrary to B.P.'s best interests by precipitately terminating father's parental rights before first seeing if he could stabilize his life to the point that he could care for B.P.

We find unavailing father's argument, the gist of which is that the evidence does not support the family court's conclusions that father would be unable to resume parental duties within a reasonable period of time, and that B.P.'s best interests required termination of father's parental rights. Expert testimony at the termination hearing revealed that, because of his significant emotional problems, B.P. was in immediate need of a secure and safe environment in terms of both his home and his care givers, who would have to provide him with constant structure, consistency in enforcement of rules, regular routines, and steady devotion. The court agreed with the expert that further uncertainty in B.P.'s life

would exacerbate his anxiety and could be devastating to his recovery. With respect to father, the court found that (1) father had a long history of failing to provide stability for B.P.; (2) father had also failed to demonstrate stability in his own life, even when it was most important to do so; (3) because of his lengthy incarceration, father has essentially no relationship with his son; (4) because father failed to acknowledge that B.P. was his son, B.P. has no relationship with father's family; and (5) B.P. has a strong relationship with his foster parents, who were working with the Brookhaven staff to learn how to help B.P. so that they could take him back into their home.

Father emphasizes in his reply brief that we have never affirmed a termination order issued at the original disposition stage and related to a parent who had never had the opportunity to receive SRS services to improve parental performance. He argues that extending services to father in this case was particularly appropriate because the child was going to stay at Brookhaven school for an extended period in any event. We must consider each case on the evidence presented and findings and conclusions of the family court. The expert testimony strongly supported the court's conclusion that B.P. critically needed stability in his life and continuing to support reunification with father as a possible goal would undermine B.P.'s development. Thus, the court had grounds to terminate parental rights at disposition and not await the very uncertain results of extending services to father if, and when, he was released from incarceration.

We conclude that the family court's findings and conclusions, which are supported by the record, demonstrate that the family court acted well within its discretion in terminating father's parental rights. See In re A.D.T., \_\_\_ Vt. \_\_\_, \_\_\_, 817 A.2d 20, 25 (2002) (termination of parental rights is committed to sound discretion of family court).

Affirmed.

BY THE COURT:

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John A. Dooley, Associate Justice

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Marilyn S. Skoglund, Associate Justice

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Frederic W. Allen, Chief Justice (Ret.)

Specially Assigned