

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

ENTRY ORDER

SUPREME COURT DOCKET NO. 2003-204

AUGUST TERM, 2003

In re A.L., Juvenile

}	APPEALED FROM:
}	
}	Addison Family Court
}	
}	DOCKET NO.12-03-01 Anjv
}	
}	Trial Judge: Helen M. Toor
}	
}	
}	

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

Mother appeals from a family court judgment terminating her residual parental rights to the minor, A.L. Mother contends the court improperly focused on her non-compliance with the conditions for reunification rather than the adequacy of her parenting skills. We affirm.

The Department of Social and Rehabilitation Services first became involved with mother in 1999 based on substantiated reports of neglect of A.L., then one year old, and her two-month old sibling. During the next two years, SRS received numerous additional reports of serious physical and medical neglect by mother of A.L. and her two younger brothers, including reports from the Health Department and the child= s pediatrician, the Parent Child Center, and others detailing mother= s failure to attend medical appointments, failure to maintain benefits for the children= s basic needs, filthy home conditions, and multiple instances of leaving the children unattended for long periods. In March 2001, SRS took custody of the children, each of whom has a different father. Five months later, mother had a fourth child by still another father. This fourth child has been placed in his father= s custody. A.L.= s father lives out of state and has voluntarily relinquished his parental rights

A.L. was adjudicated CHINS after a contested merits hearing in April 2001. Between the time A.L. was taken into custody in March and the initial disposition report in June, mother missed twelve of twenty scheduled visits with A.L. The case plan adopted by the court in June called for reunification based on a number of requirements, including weekly counseling, maintaining part-time employment, meetings with a parent educator, and attending visits with the children. The disposition report indicated that if reunification efforts were not successful by August the Department would seek termination of parental rights.

SRS filed a termination petition in January 2002, based on mother= s non-compliance with the plan despite the extra five months of services. In May, following a hearing, the court approved an agreement in which mother voluntarily relinquished her parental rights to two of A.L= s younger siblings, and agreed to continue to work toward reunification with A.L. for the next six months by working with a parent educator, maintaining employment, engaging in counseling, cooperating with A.L.= s foster parent, and fulfilling certain other requirements. In October, SRS re-filed the termination petition. Following a four day hearing in December, the court issued a written decision granting the petition. This appeal followed.

Mother= s sole contention on appeal is that the trial court improperly focused on her level of compliance with the conditions for reunification rather than the adequacy of her parenting skills. The court= s findings do, indeed, describe in detail mother= s history of general non-compliance with the case plan requirements, and mother has not challenged the sufficiency of the evidence underlying these findings. The court acknowledged that there were areas where mother

had made some progress, and that some of the foster mother's expectations were unrealistic. Nevertheless, the court's extensive findings B supported by the overwhelming evidence B indicate a consistent overall pattern of non-compliance. Furthermore, the court properly focused on mother's non-compliance with the case plan to establish a change of circumstances B or stagnation B as the first step in determining the merits of the petition. See In re D.B., 161 Vt. 217, 219-20 (1993) (court may terminate parental rights if it finds a substantial change of circumstances and that termination is in child's best interests; failure to meet expectations of case plan may be basis for finding stagnation).

Although mother claims that the court was A preoccupied@ with compliance issues to the exclusion of explaining what impact her non-compliance actually had on her parenting skills, the decision does not support the claim. Having found stagnation, the court went on to examine whether termination was in the child's best interests under the statutory criteria set forth in 33 V.S.A. ' 5540. The court found that mother's consistent failure to keep visitation, medical, and other appointments reflected negatively on her interaction with the child and her role in the child's life, and created constant stress in the relationship. See id. ' 5540(1) & (4) (best interests analysis includes A the interaction and interrelationship of the child with his natural parents@ and A [w]hether the natural parent has played and continues to play a constructive role@). As to the critical question of mother's ability to resume parental responsibilities within a reasonable period of time, id. ' 5540 (3), the court noted that despite two years of intensive services, mother had not been able to complete her counseling and educational obligations under the case plan or regularly keep appointments in the child's interest, indicating that she remained unable to focus on the child's needs and place them ahead of her own. The court thus concluded that mother remained unable to responsibly parent the minor, now or in the foreseeable future. Finally, the court found that A.L. had established an extremely strong bond with her foster parents and foster siblings, and was thriving in her new school and community. Id. ' 5540(2).

We thus discern no basis to conclude that the trial court failed to address the proper factors in its decision, which was amply supported by the evidence and findings.

Affirmed.

BY THE COURT:

Jeffrey L. Amestoy, Chief Justice

Denise R. Johnson, Associate Justice

Marilyn S. Skoglund, Associate Justice