

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

ENTRY ORDER

SUPREME COURT DOCKET NO. 2003-506

FEBRUARY TERM, 2004

} APPEALED FROM:
}
} Washington Family
} Court
}
In re T.B., Juvenile }
} DOCKET NO. 51-4-02
} WnJv
}
} Trial Judge: Geoffrey
} Crawford

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

Mother and father appeal the termination of their parental rights with respect to their son, T.B. We affirm.

T.B. was born on March 2, 2001. Before his first birthday, the child received various medical treatments, either at the emergency room of the local hospital or at his pediatrician's office. In the spring of 2002, T.B. suffered four separate episodes of arrested breathing and hypoxia, a condition resulting from a decrease in oxygen available to the body's tissues. The child was subjected to a battery of tests, which did not reveal any cause for the conditions reported by mother. T.B.'s pediatrician contacted the Department of Social and Rehabilitation Services (SRS) based on her belief that mother was suffering from Munchausen Syndrome by Proxy (MSBP), a disorder in which a person, usually a parent, falsifies or causes an illness in a child in order to obtain attention or acknowledgment from medical providers. T.B. was placed in SRS custody on April 12, 2002 following an emergency detention hearing. On May 6, 2002, the family court concluded that T.B. was a child in need of care and supervision (CHINS), finding by clear and convincing evidence that mother falsified some of T.B.'s medical conditions and caused at least two of the child's life-threatening conditions. At the disposition hearing, the court continued SRS custody and adopted the SRS case plan calling for reunification upon mother's successful completion of mental health therapy and both parents' acknowledgment of mother's role in the abuse of T.B. Following a March 27, 2003 permanency plan review hearing, the parents were given additional time to meet the case plan goals. On June 12, 2003, based on the parents' failure to meet those goals, SRS filed a petition to terminate their parental rights. A two-day hearing was held in October 2003, after which the family court terminated mother's and father's residual parental rights.

Both mother and father appeal the family court's termination order, arguing that the court failed to determine what is a reasonable period of time B from the perspective of T.B. B for parents to resume their parental duties. See In re B.M., 165 Vt. 331, 337 (1996) (reasonable-period-of-time factor is forward-looking and measured in terms of child's needs). According to mother, reversal is required because the family court did not determine whether allowing her more time in therapy to address her problems would place T.B. at risk of emotional or physical harm. See In re D.A., 172 Vt. 571, 573 (2001) (mem.) (Vermont law A must be construed to preserve the family unit if it can be done so within a reasonable period of time without physically or emotionally harming the child@). We conclude that the court's findings, which focused on the statutory best-interest criteria set forth in 33 V.S.A. ' 5540, support its termination order. With respect to the most important of the criteria B the likelihood that the parents will be able to resume parental duties within a reasonable period of time B the court found that (1) mother suffers from MSBP; (2) people with MSBP generally find it extremely difficult to admit that they suffer from the disorder; (3) they frequently remain in denial even when evidence of its existence, including injury to the child, is very strong; (4) consequently, a cure for this condition is

rare; (5) mother has tried very hard to gain insight into the disorder, but after more than a year of therapy she was still unable to admit that she suffered from the condition and had injured T.B. as the result of the disorder; (6) at one point, mother was able to report dreaming that she had placed a wet washcloth over T.B.' s face, but she was unable to make any further progress in gaining insight into, or acknowledgment of, her illness; (7) father did not believe that mother suffered from MSBP or had injured T.B.; and (8) there is significant risk of injury or death if T.B. is returned to his mother' s custody.

As these findings demonstrate, when the family court issued its termination order, T.B. had been in SRS custody for eighteen months B more than half of his life B and mother had been in therapy for approximately fifteen months, with little hope and virtually no direct evidence that either she or father would be able to acknowledge, let alone address, her dangerous disorder. As such, the findings support the court' s conclusion that there is no likelihood that mother or father will be able to resume their parental duties within a reasonable period of time. Cf. In re J.S. & S.S., 168 Vt. 572, 574 (1998) (mem.) (reasonable time for reunification had already passed, considering age of children, length of time that they had been separated from parents, and their need for permanence; even assuming that reasonable time had not already passed, evidence indicated little hope that in near future parents would be able to overcome their deeply ingrained and longstanding problems). This case is distinguishable from In re D.A., 172 Vt. at 573-74, where we affirmed the family court' s order denying SRS' s termination petition, noting that the parents had presented coherent testimony demonstrating the significant strides they had made towards the goal of reunification. Notably, we affirmed the order because it was supported by the court' s analysis of each of the statutory best-interest factors contained in ' 5540, even though A the court made no explicit findings on [the child' s] need for permanency. @ Id. at 573.

Affirmed.

BY THE COURT:

Jeffrey L. Amestoy, Chief Justice

John A. Dooley, Associate Justice

Paul L. Reiber, Associate Justice