

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

**ENTRY ORDER**

SUPREME COURT DOCKET NO. 2004-365

JANUARY TERM, 2005

In re C.J. and R.J., Juveniles

}	APPEALED FROM:
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}	Lamoille Family Court
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}	DOCKET NO. 19-04/57-10-01 Lejv
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}	Trial Judge: Alan W. Cheever
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In the above-entitled cause, the Clerk will enter:

Mother appeals the termination of her residual parental rights in her son C.J. and daughter R.J. We affirm.

R.J. and C.J. are two of mother's six biological children. Both children, now in their early teens, were adjudicated in need of care and supervision (CHINS) in the fall of 2001 and summer of 2002 respectively. Mother could not adequately supervise and discipline the children and she suffered from substance abuse issues. The family court subsequently approved a disposition plan calling for reunification with mother and requiring mother to achieve a number of goals. The goals included the following: (1) provide C.J. and R.J. with a stable home free from illegal drugs; (2) maintain stable employment; (3) engage in individual therapy to address her substance abuse issues and her attention deficit disorder; and (4) attend and complete anger management and parenting classes. Since the time the children were removed from her home, mother has not achieved any of those goals.

Mother's lack of progress on the case plan goals prompted the Department for Children and Families (DCF) to petition the family court for an order terminating mother's parental rights in both children. The court took evidence over four days in the spring and summer of 2004. In its order, the court found that mother was deceitful. She absconded to Canada with her youngest child when he was in the legal custody of DCF. Mother was eventually caught and convicted of custodial interference. Mother's deceit was also apparent in the stories she told to DCF officials about various matters related to the children. For example, C.J. burned himself one evening when she was not at home. She told DCF that she was home on that evening, that C.J. burned himself accidentally with boiling water while cooking a hotdog. She said that she did not bring C.J. to the hospital right away because she did not realize that the burn was so severe. The court found that mother lied about the incident. In truth, C.J. and R.J. were left unattended that evening and the burn resulted from their attempt to mimic a movie stunt. C.J. poured gasoline on his leg and ignited it. The boy received second-degree burns from the incident, but he did not want R.J. to obtain treatment for him because he feared his mother would get into trouble.

On another occasion, mother claimed to be home on a night that R.J. suffered severe alcohol poisoning and needed hospitalization. The family court found her assertion incredible. The court found that mother was not home and that the local police tried to contact her after they took R.J. to the hospital. The police were not able to reach mother until early the following morning. Mother also lied to DCF about R.J. and C.J.'s behavior on one night in June 2003. The children were out taking cars without their owners' consent. Like their mother, the children lied about the incident to DCF as well.

The court's findings show that the chaos caused by mother's lack of appropriate supervision impaired the children's ability to function normally. With respect to R.J., the court found that mother and daughter relate as peers. Mother

smoked marijuana with R.J. on the child's fourteenth birthday. Mother has taken R.J. to bars where mother's friends were drunk and "falling over." R.J.'s behavior at school became problematic, and on one occasion, R.J. was caught smoking marijuana with some friends. R.J. has been sexually active with boys her own age and older, and she has abused alcohol. R.J.'s out-of-control and self-damaging behavior led to her placement at a year-round, residential program for adolescents. R.J. is scheduled to remain in the residential program until June 2005.

Mother's poor parenting has had a profoundly adverse effect on C.J. also. C.J. believes he is responsible for his mother and that he is the reason for her troubles. The court found that C.J.'s need to care for mother adversely affects his normal development, and that if left unchecked, the child will lack the ability to function well as an adult. The court found that despite C.J.'s bond and stated desire to reunite with mother, the relationship he has with her is unhealthy. For example, C.J.'s loyalty to mother creates a risk to his health as evidenced by his refusal to get treatment for second-degree burns on his leg.

The family court ultimately determined that terminating mother's rights so that C.J. and R.J. could be adopted were in the children's best interests. Mother appeals that determination, arguing that DCF failed to present sufficient evidence on the children's bond with mother and whether severing that bond is in their best interests. Mother's claim has no merit.

Mother does not challenge the court's fact findings. Therefore, we will affirm the order on appeal if the findings support the court's conclusions. In re A.W., 167 Vt. 601, 603 (1998).

When the family court considers a petition to terminate a parent's residual parental rights, it must determine if termination serves the best interests of the children in light of the four factors provided by § 5540 of Title 33. 33 V.S.A. § 5540. Two of the four factors relate to the parent-child bond. Specifically, factors one and four require the family court to consider:

(1) The interaction and interrelationship of the child with his natural parents, his foster parents if any, his siblings, and any other person who may significantly affect the child's best interests; [and]

....

(4) Whether the natural parent has played and continues to play a constructive role, including personal contact and demonstrated love and affection, in the child's welfare.

Id. § 5540(1), (4). In this case, the court heard substantial evidence on the relationship between mother and the children, and the court addressed the two factors at issue here. The court found that the children had an unhealthy relationship with their mother. C.J. holds beliefs about mother that are harmful to his proper development. R.J.'s peer relationship with mother taught her to engage in self-destructive behavior like taking illegal drugs, having sex, and drinking alcohol. Mother has not played a constructive role in the lives of her children.

Overall, the court's findings establish that the bond the children have with mother is not one that will aid their healthy development into functional adults. The court concluded that severing mother's legal relationship with R.J. and C.J. was, therefore, in the children's best interests. That conclusion has ample support in the evidence and in the court's findings. No error appears.

Affirmed.

BY THE COURT:

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Paul L. Reiber, Chief Justice

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Denise R. Johnson, Associate Justice

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Frederic W. Allen, Chief Justice (Ret.),

Specially Assigned