

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

ENTRY ORDER

SUPREME COURT DOCKET NO. 2005-095

AUGUST TERM, 2005

In re R.J., Juvenile

} APPEALED FROM:

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} Lamoille Family Court

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} DOCKET NO. 33-4-04 Lejv

Trial Judge: Alan W. Cheever

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

Mother appeals the Lamoille Family Court=s decision to terminate her parental rights in R.J., one of mother=s six biological children. We affirm.

The circumstances giving rise to this case are not unfamiliar to this Court. In January 2005, the termination of mother=s parental rights in two of her other children was affirmed on appeal. See In re C.J., No. 2004-365, slip op. (Vt. Jan. 12, 2005) (unreported mem.). The termination petition in that case also concerned R.J., but was later dropped because R.J. went to Canada to live with his biological father. When the Department for Children and Families (DCF) learned that R.J. had returned to Vermont to live with mother, it took R.J. into custody and filed a petition alleging the child was in need of care and supervision (CHINS). The family court found R.J. to be CHINS in July 2004. In August, DCF filed the termination petition at issue here, which the family court granted in February 2005.

The family court=s findings, which mother does not challenge on appeal, show that mother has a long history of instability and poor parenting that required repeated DCF intervention. Mother is a substance abuser whose chaotic lifestyle put her children at risk of harm. With respect to R.J., for example, mother arranged for him to be cared for by a man who provided little appropriate supervision. While in this man=s custody R.J. smoked marijuana, snorted a drug called Klonopin, and drank alcohol. The child was just eight years old at the time.

Since entering DCF custody, R.J. has been in and out of a number of foster homes and residential treatment facilities because of his seriously problematic behaviors. He assaulted the principal of his elementary school, physically fought with other children, threatened his siblings with a knife, and punched one of his foster parents. R.J. required treatment at Brattleboro Retreat, where he was diagnosed with attention deficit-hyperactivity disorder (ADHD), oppositional defiant disorder, depressive disorder, and adjustment disorder. R.J.=s ADHD required medication. Mother was not supportive of DCF=s plan to give R.J. the medication he needed and at times undermined the agency=s efforts to do so. Mother has not been able to achieve the goals in any one of the seven case plans DCF prepared for R.J. The family court found that throughout her involvement with DCF, mother Ahas colluded with her children to keep relevant, truthful information from DCF. She has told lies to her caseworkers and she has made unfounded complaints against foster parents, mentors, and . . . DCF staff. . . . She threatened RJ=s school principal.@ The court found that mother and R.J. fabricated allegations of sexual abuse against one of the child=s foster parents, and that R.J. later falsely accused another foster parent of raping him.

Ultimately, the family court determined that R.J. required immediate permanency, which mother could not provide. The family court concluded that R.J.'s best interests required termination of mother's residual parental rights. Mother challenges that decision. She argues that the court failed to consider the negative effects of severing R.J.'s bond with her. Mother claims the court ignored important testimony from R.J.'s therapist that future parent-child contact may be therapeutic for the child. Where, as here, mother does not challenge the family court's findings, we will affirm the termination order if the findings support the court's conclusions. *In re A.W.*, 167 Vt. 601, 603 (1998) (mem.).

In termination-of-parental-rights cases, the family court must determine whether the child's best interests will be met by severing or retaining the legal parent-child relationship after considering four factors set out in 33 V.S.A. ' 5540. Those factors include the quality of the child's interaction and relationship with his biological parents and whether his biological parents played and continue to play a constructive role in his welfare. 33 V.S.A. ' 5540(1), (4).

In this case, the court addressed those factors in light of its findings. The court concluded that although R.J. had a strong bond with mother, their relationship was unhealthy. The evidence and court's findings provide ample support for that conclusion. Like his mother, R.J. has smoked marijuana and abused other substances. With mother's approval, R.J. has lied. Indeed, mother and R.J. made false allegations of sexual abuse against R.J.'s one-time foster family. Importantly, the court determined that mother has undermined R.J.'s ability to establish meaningful relationships with supportive, loving people in his life. The court summed up its conclusions as follows:

[Mother] has played a negative role in R.J.'s life. She has demonstrated no insight into the negative impact that she has on R.J. She cannot meet the needs of R.J. or ensure his welfare. R.J. requires a safe, secure and stable home free of the threat of being removed and again having to adjust to a new situation. R.J. has endured years of instability at the hands of his mother despite services and support. R.J. is now in a home where he is loved and cared for and his needs are being met. Weighing all of the evidence, there is only one conclusion that can be reached. It is in R.J.'s best interests that [mother's] residual parental rights be terminated.

Mother claims that countervailing evidence existed in support of her position that maintaining her legal relationship with R.J. would be in his best interests. However, we do not review the family court's evidentiary weight and credibility determinations. See *LaMoria v. LaMoria*, 171 Vt. 559, 561 (2000) (mem.) (As the trier of fact, it is the province of the family court to determine the credibility of the witnesses and weigh the persuasiveness of the evidence.). Here, the family court's unchallenged findings wholly support its conclusion that termination of mother's rights was in R.J.'s best interests.

Affirmed.

BY THE COURT:

Paul L. Reiber, Chief Justice

John A. Dooley, Associate Justice

Marilyn S. Skoglund, Associate Justice

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