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

ENTRY ORDER

SUPREME COURT DOCKET NO. 2005-130

AUGUST TERM, 2005

In re K.L. & A.L., Juveniles	}	APPEALED FROM:
	}	
	}	
	}	Addison Family Court
	}	
	}	
	}	DOCKET NOS. 42-5/65-7-04 AnJv

Trial Judge: Christina Reiss

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

Mother appeals from a family court judgment terminating her parental rights to the minors K.L. and A.L. She contends the evidence fails to support several of the court=s findings. We affirm.

The facts may be summarized as follows. Sometime between 1993 and 1994, mother moved with her first husband and two children from Vermont to Colorado. Thereafter, mother entered into a relationship with A.L., Sr., resulting in the births of A.L., Jr. in 1996, and K.L. in 1998. That relationship ended in 2001, and mother entered into a relationship with another man who was physically abusive. She was also abusing drugs and alcohol at this time. As a result, in March 2001, A.L. and K.L. went to live in Vermont with their maternal grandmother, who was appointed guardian. Thereafter, mother was convicted of assault in Colorado, sentenced to three years in prison, and placed on probation. She was later found to be using illegal drugs, in violation of probation, and incarcerated. When she was released in December 2003, she left the state, again in violation of probation, and was re-incarcerated to serve the remaining term.

The children=s maternal grandmother died in March 2004. The children then lived for a brief time with their aunt, mother=s sister, but in May 2004, the court issued an emergency order transferring custody to the Department of Children and Families when the aunt was charged with drug violations. The children were adjudicated CHINS and eventually placed in separate foster homes. In October 2004, following the initial disposition hearing, DCF filed petitions to terminate parental rights. An evidentiary hearing took place over two days in December 2004 and January 2005. Both parents were represented by counsel, although the children=s fatherCwho had had no contact with the children since 2001Ccould not be located and did not appear, and mother, who remained imprisoned in Colorado, appeared by telephone.

Following the hearing, the court issued a written decision, concluding that termination of parental rights was in the children=s best interests. Accordingly, the court granted the petitions without limitation as to adoption. This appeal by mother followed.

Mother first contends the evidence and findings fail to support a conclusion that she is an unfit parent. The court did not make an express finding of unfitness. We have held, however, that the trial court need not explicitly find that the parent is unfit Awhere the balance of the court=s decision leaves no room for doubt.@ In re C.A., J.A., & A.M., 160 Vt. 503, 505-06, 630 A.2d 1292, 1294 (1993). Here, the court found, and the evidence, showed, that mother had

not served in any meaningful caregiver capacity for the children since March 2001, when they went to live with their grandmother, and that they had been cared for by other relatives or in foster homes since the grandmother died while mother was incarcerated in Colorado, where she remained at the time of the hearing. Moreover, the evidence showed that mother=s efforts even to remain in contact with the children since 2001 had been limited and sporadic. Hence, the court reasonably found that mother had established no meaningful relationship with the children, and that she could not resume parental responsibilities within a reasonable period of time, and these findings Aleave no room for doubt@ concerning mother=s unfitness. Id.

Mother contends, nevertheless, that the court could not properly consider the fact that her contact with the children was limited during the time that they lived with their grandmother in Vermont from March 2001 to the grandmother=s death in March 2004. Citing In re G.C., 170 Vt. 329, 333-34, 749 A.2d 28, 31 (2000), where we held that a CHINS adjudication was not necessarily compelled where parents leave their children with relatives during a period of incapacitation, mother implies that the lack of contact was the result of circumstances beyond her control. The record shows, however, that the grandmother and mother=s sister affirmatively intervened to retrieve the children from Colorado due to an unsafe home environment caused by mother=s substance abuse and relationship with an abusive man. Mother=s subsequent lack of contact with the children after the grandmother=s death was similarly caused by mother=s own decisions that resulted in her incarceration. See In re K.F., 2004 VT 40, & 12, 176 Vt. 636, 638, 852 A.2d 584, 588 (finding family court did not improperly consider factors beyond father=s control where his failure to maintain contact was result of his frequent incarceration); In re A.D.T., 174 Vt. 369, 376, 817 A.2d 20, 26 (2002) (noting that court could properly consider parent=s lack of contact with children caused by conduct that resulted in repeated imprisonment). Hence, we find no merit to the claim.

Mother also takes issue with the court=s finding that her lengthy absences from the children=s lives and the resulting necessity to utilize a variety of caregivers has had a negative emotional impact on the children. Our review of the court=s findings is limited. The trial court enjoys broad discretion to determine whether termination is in the child=s best interests, and will not disturb its findings unless clearly erroneous, nor its conclusions if supported by the findings. Id. at 375, 817 A.2d at 25. The challenged finding in this case was a reasonable inference from the testimonial evidence concerning the significant progress that the children had made in foster care. See In re Nash, 158 Vt. 458, 462, 614 A.2d 367, 369 (1991) (court is entitled to draw reasonable inferences from the testimony it receives) Accordingly, we discern no error.

Next mother contends the evidence failed to support the court=s finding that her bonds with the children were weak and insignificant. Mother mischaracterizes the court=s finding, which was not premised on an absence of emotional bonding despite the sporadic parent-child contact since 2001, but rather was based on the overwhelming evidence that mother had not served in any meaningful caregiver capacity nor played any constructive role in the children=s lives for years, and would not be able to resume parental responsibilities within a reasonable period of time. Thus, there was no error.

Finally, mother contends the court=s conclusion that she could not resume parental responsibilities within a reasonable time was baseless, citing the testimony of a Colorado corrections official that she could be paroled from prison as early as July 2005, five months from the date of the hearing. The court noted the additional testimony, however, that even if released on the earliest possible date, mother would be required to obtain appropriate housing and employment in Vermont, and attend parenting, counseling and other services before she would be able to parent the children, and that this could take several years. Given the children=s lengthy history of instability, age, need for permanence and stability, and strong attachment to their current foster parents, the court justifiably concluded that mother could not likely resume parental responsibilities within a reasonable period of time. See In re C.L., 2005 VT 34, &17, 878 A.2d 207 (reasonableness of time for resumption of parental responsibilities must be measured from perspective of the child=s needs). Therefore, we discern no basis to disturb the judgment.

Affirmed.

BY THE COURT:

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Paul L. Reiber, Chief Justice

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John A. Dooley, Associate Justice

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Marilyn S. Skoglund, Associate Justice