

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

ENTRY ORDER

SUPREME COURT DOCKET NO. 2007-059

JUNE TERM, 2007

In re N.H., Juvenile	}	APPEALED FROM:
	}	
	}	Chittenden Family Court
	}	
	}	DOCKET NO. 259-6-05 Cnjv
		Trial Judge: Stephen B. Martin

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

Mother appeals from the family court’s order terminating her residual parental rights in N.H. She argues that the court erred in concluding that she would not be able to resume her parental duties within a reasonable period of time. We affirm.

N.H. was born in April 2005. In June 2005, the Department for Children and Families (DCF) filed a petition alleging that N.H. was a child in need of care and supervision (CHINS), and shortly thereafter, custody of the child was transferred to DCF. In July 2006, DCF filed a petition to terminate mother’s residual parental rights. After a hearing, the family court granted the petition. It made the following findings. Mother has a history of criminal behavior and substance abuse, which impeded her ability to care for N.H. In June 2005, mother was on furlough and living at the Lund Family Center (LFC). Mother struggled to take care of N.H. While on a three-hour pass from LFC, mother left N.H. at the home of a friend. Mother then violated the terms of her furlough by drinking alcohol. In July 2005, mother stipulated that N.H. was CHINS. Pursuant to the DCF case plan, mother needed to address her substance abuse issues, mental health, housing instability, and lack of parenting skills. The court found that mother could not meet the child’s needs even in the structured environment of LFC, and by the October 2005 disposition hearing, mother had made no significant steps to address the issues that had brought N.H. into DCF custody. In fact, by October 2005, mother had been convicted of felony escape from furlough and was incarcerated. Mother was in jail for seven of the sixteen months that N.H. had been in DCF custody.

Mother’s caseworker at the Department of Corrections testified, and the court found, that mother struggled to comply with DOC program expectations and requirements. Mother continued to test positive for drugs and was reincarcerated several times. Mother had no stable residence or employment, and she made bad choices in her relationships. The court found that through her pattern of conduct, mother demonstrated that she lacked the ability to meet her own needs and the maturity to put N.H.’s needs before her own. As of the date of the termination hearing, the court found that mother still had not taken any significant steps to address the goals of the case plan; she consistently violated her furlough; she consistently lacked stable housing; she failed to complete her substance abuse assessment; she did not engage in mental health or substance abuse counseling in any meaningful manner; she failed to consistently attend parenting education classes; and she failed to demonstrate that she was developing the skills needed to parent N.H. and keep her safe. The court also noted that mother set up only one visit with the child while she was on furlough, which the court found to be further evidence of mother’s inability to put N.H.’s needs before her own.

The court explained that N.H. was now eighteen months old, and she had been in DCF custody for all but six weeks of her life. Mother was presently unable to parent N.H., and in light of her failure to meaningfully participate in services to address her substance abuse, mental health, and parenting issues, she would be unable to meet N.H.'s needs in the foreseeable future. Based on these and numerous other findings, the court concluded that mother had stagnated in her ability to parent, and that termination of her residual parental rights was in N.H.'s best interests. This appeal followed.

Mother argues that the court erred in concluding that she would not be able to parent N.H. within a reasonable period of time. According to mother, the court begged the question of whether she could parent N.H. in the future because it stated in its order that a reasonable amount of time "had already passed." Mother also asserts that there is no evidence that a reasonable amount of time has passed from N.H.'s perspective.

We find no error. To determine the best interests of the child, the court must consider four statutory factors. 33 V.S.A. § 5540. The most important factor in the court's analysis is the likelihood that the natural parent will be able to resume his or her parental duties within a reasonable period of time. In re B.M., 165 Vt. 331, 336 (1996). This inquiry is "forward-looking," and the court "must consider the parent's prospective ability to parent the child." Id. at 337. As long as the court applied the proper standard in evaluating a child's best interests, we will not disturb its findings on appeal unless they are clearly erroneous; we will affirm its conclusions if they are supported by the findings. In re G.S., 153 Vt. 651, 652 (1990) (mem.).

The court applied the proper standard here, and its findings and conclusions are supported by the evidence. The family court plainly evaluated whether mother could parent N.H. in the future. Cf. B.M., 165 Vt. at 337 ("Although a 'reasonable period of time' must be measured in terms of the child's needs, the court cannot beg the question by concluding that a reasonable period of time ended years before the termination-of-parental-rights hearing."). As set forth above, the court found that mother's behavior while N.H. was in custody demonstrated that she would be unable to provide N.H. with a safe and stable home in the future. This conclusion is amply supported by the record, as is the court's conclusion that a reasonable period of time had passed from N.H.'s perspective. As the court explained, N.H. had been in DCF custody since she was six weeks old, and she had been waiting for almost eighteen months for mother to make progress in addressing her parenting deficiencies. Given N.H.'s young age and her need for stability, as well as mother's failure to take any significant steps toward meeting the goals of the case plan, the court reasonably concluded that a reasonable period of time had passed from the child's perspective. We find no error.

Affirmed.

BY THE COURT:

Paul L. Reiber, Chief Justice

John A. Dooley, Associate Justice

Denise R. Johnson, Associate Justice