

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

ENTRY ORDER

SUPREME COURT DOCKET NO. 2007-248

OCTOBER TERM, 2007

In re L.L., Juvenile

} APPEALED FROM:
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}
} Chittenden Family Court
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} DOCKET NO. 113-3-06 Cnjv

Trial Judge: Geoffrey Crawford

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

Mother appeals from the family court’s order, terminating her residual parental rights in L.L. She argues that the court erred in concluding that she would be unable to parent within a reasonable period of time. We affirm.

L.L. was born in May 2002 when mother was eighteen. In September 2003, L.L. was severely abused by mother’s boyfriend, and she was immediately taken into the custody of the Department for Children and Families (DCF). By agreement, L.L. was placed with her maternal grandmother, and a permanent guardianship was put into place in March 2005. L.L. was again subjected to physical and emotional abuse while in grandmother’s care, and in June 2006, she was removed from grandmother’s home and placed with a foster family. In an August 2006 disposition report, DCF indicated that within three months, mother needed to demonstrate her immediate ability to consistently and adequately meet all of L.L.’s needs. The report identified a number of specific strategies for achieving this goal, including mother’s participation in a three-month Easter Seals parent education program. In December 2006, DCF moved to terminate mother’s residual parental rights, and after a hearing, the court granted its request.

The court made the following findings. Mother had good intentions in trying to care for L.L. and she had taken significant steps to comply with DCF’s disposition report. She had undergone a substance abuse evaluation, for example, and stopped driving while her license was suspended. Mother had also started the Easter Seals parenting program, and she attended five of seven visits before the Easter Seals employee unilaterally terminated the program. The court found that there had been no incident that justified terminating the program and that mother’s failure to complete the program was not due to a lack of attendance or commitment on her part.

Despite these positive steps, however, mother remained unable to provide stable parental care for L.L. She had no fixed address, and her housing situation had remained unstable since the August 2006 disposition report. While mother discussed plans to move to Barre and obtain training as an LNA, these plans remained general and undefined. In addition to lacking a home and a steady job, mother also lacked maturity and insight into the problems that L.L. would face as an abused child. She continued to question whether her former boyfriend had actually harmed L.L. or whether he should be credited with reviving her after a household accident. Mother also blamed DCF for her daughter's placement in foster care. The court found that while mother's anger and frustration were understandable given her young age, they interfered substantially with mother's ability to recognize the harm done to L.L. and L.L.'s need to grow up in a stable setting. The court also noted that mother had a history of choosing male partners with criminal records who were often abusive to her and, on at least one occasion, to L.L. While mother testified that she had come to recognize the need for psychological help, she had not yet located a counselor whom she trusted. Although this was progress, it was also evidence of delay that L.L. would have to confront. The court found that L.L. had been deprived of consistent parental care from age sixteen months until she was placed with her current foster family at age four. Her life before the foster placement was frightening and chaotic. Now, L.L. was well-adjusted to her foster home, and she had formed loving relationships with her foster family. While the court had sympathy for mother, it concluded that L.L. needed immediate parenting, and she could not continue to wait for mother to achieve the necessary level of maturity.

Turning to the specific best-interest factors set forth in 33 V.S.A. § 5540, the court found that three of the four factors supported termination of mother's parental rights. As to the most important factor, the court reasoned that mother's lack of housing, current unemployment, and psychological instability made it essentially impossible for her to meet her daughter's need for a permanent home within a reasonable period of time. It explained that the first two factors also strongly favored a continuation of L.L.'s life with her foster family. The one factor that weighed in mother's favor—her continued love and constructive role in L.L.'s life—was heavily outweighed by the three other factors. Put simply, the court explained, L.L.'s placement with her foster family brought L.L. a level of care and stability that she clearly needed. The court thus concluded that termination of mother's parental rights was in L.L.'s best interests. Mother appealed.

Mother argues that the court erred by concluding that she would not be able to parent L.L. within a reasonable period of time. She maintains that she was deprived of a crucial DCF-prescribed parenting program and that the court failed to recognize that such deprivation may bar termination of her parental rights. She argues that the program would have helped her understand child development, engage in appropriate verbal behavior at visits, and accept responsibility for her conduct. Mother acknowledges that L.L. needs permanence, but asserts that she should be afforded three months to complete the Easter Seals program.

These arguments are unpersuasive. The court did not terminate mother's rights based on her failure to complete the Easter Seals program, or on "factors beyond her control," as she suggests. Cf. *In re S.R.*, 157 Vt. 417, 421-22 (1991) (recognizing that "stagnation" caused by factors beyond parent's control could not support termination of parental rights, but rejecting claim that DCF caused stagnation). Indeed, it specifically found mother blameless for her early termination from the Easter Seals program. As noted above, the court's decision was based on

mother's ongoing lack of stability and maturity and L.L.'s high need for immediate stability and permanence with mature parents who could help her overcome her difficult start in life. As the court found, mother had no fixed address, no stable employment, and she had unresolved psychological issues. Mother does not challenge any of these findings on appeal, and the findings amply support the court's conclusion that mother was unable to parent L.L. within a reasonable period of time as measured from the child's perspective. We find no error. See In re G.S., 153 Vt. 651, 652 (1990) (mem.) (family court's findings will be upheld unless clearly erroneous, and its conclusions will be affirmed if supported by the findings).

Affirmed.

BY THE COURT:

Paul L. Reiber, Chief Justice

John A. Dooley, Associate Justice

Marilyn S. Skoglund, Associate Justice

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