

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

**ENTRY ORDER**

VERMONT SUPREME COURT  
FILED IN CLERK'S OFFICE

SUPREME COURT DOCKET NO. 2008-514

APR 15 2009

APRIL TERM, 2009

In re J.B., Juvenile

} APPEALED FROM:  
}  
} Chittenden Family Court  
}  
} DOCKET NO. F19-1-07 Cnjv  
} Trial Judge: A. Gregory Rainville

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

Parents appeal the family court's order terminating their parental rights with respect to their daughter J.B., who was born in December 2006. We affirm.

J.B. is the fifth of parents' five children. The other four were born between 1986 and 1991. The Department for Children and Families (DCF) has been involved with the family since 1991. The four older children were taken into state custody in 1993 based on issues concerning physical abuse, lack of parental supervision, medical neglect, and, finally, the sexual abuse of parents' then-five-year-old daughter by father's cousin, who was living with parents at the time. Following extensive litigation between 1994 and 2001, the family court terminated parents' rights with respect to those children, custody of whom was eventually transferred to their paternal grandmother in Pennsylvania.

Because of the aforementioned history and a report of concern from the hospital where mother was receiving prenatal care, DCF initiated an investigation regarding J.B. shortly after she was born. A DCF social worker found parents' home in deplorable condition. An interview with mother revealed that a convicted sex offender had been a boarder at parents' home in the recent past, and that mother continued to believe that the sexual abuse of her older daughter had been blown out of proportion. J.B. was removed from the home, and in May 2007, parents stipulated to her being a child in need of care or supervision (CHINS). At the time of the stipulation, parents acknowledged that another sex offender was residing in their home. The court found that parents had attempted to hide that fact during the DCF interview after J.B.'s birth. Following the CHINS determination, parents began working with an Easter Seals treatment coordinator, who sought to help them maintain personal hygiene, improve safety within their household, meet J.B.'s needs as a young child, and understand the effects of sexual abuse. In October 2007, dissatisfied with parents' lack of progress concerning these issues, DCF filed a petition to terminate parental rights. Following three days of hearings in May 2008, the family court granted the termination petition.

On appeal, parents argue that: (1) the family court's findings do not support its conclusion that a reasonable period of time had passed for them to resume their parental duties; and (2) the court made a material finding unsupported by necessary medical testimony.

As for the first argument, parents contend that there is no evidence or findings to support the court's conclusion that waiting any longer for them would only compound the risk of harm to

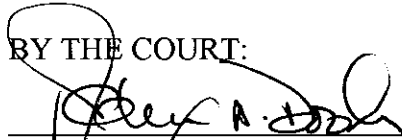
J.B. They also argue that the court's finding that they do not appreciate the risk posed by having a sex offender boarder is based upon a questionable stipulation made when no termination petition was pending. We find these arguments unavailing. The court found that the biggest obstacle to parents resuming their parental duties is their continuing unwillingness or inability to recognize the devastating effects of sexual abuse and the threat posed by exposing J.B. to sex offenders. The court expressed its concern that, despite their older daughter having been sexually abused by father's cousin years earlier, parents continued to allow the cousin to reside with them at times, even after J.B. was born, and also allowed two other convicted sex offenders to reside with them. The court found that these actions unnecessarily placed J.B. at substantial risk of harm. The court also found that parents had neither meaningfully participated in services nor acknowledged the considerable deficiencies in their parenting skills, and thus had not improved their ability to protect and nurture J.B., despite the passage of years. Having made these findings, which are supported by the evidence, the court determined that it was highly unlikely that parents would be able to make the necessary improvements in their parenting skills within the foreseeable future. Considering J.B.'s tender age and the fact that she had spent almost her entire life with her foster family, the court concluded that parents would be unable to resume their parental duties within a reasonable period of time. The evidence and the court's findings amply support this conclusion. Cf. In re J.F., K.F., K.F. & J.F., 2006 VT 45, ¶ 19, 180 Vt. 583 (mem.) (holding that evidence and court's findings support conclusion that parents will be unable to resume parental duties within reasonable period of time because of their demonstrated inability or unwillingness to address their deficiencies throughout a period of years).

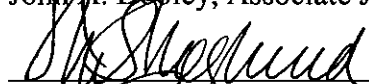
Parents also argue that the court based its termination decision in material part on a finding that mother's "untreated medical condition" concerning her tendency to fall asleep at inappropriate times substantially impaired her ability to care for and protect J.B. The challenged finding was based on testimony from state witnesses as well as the court's own observations. A parent educator testified that she had worked with mother on this safety issue. A social worker testified as to her concern about mother falling asleep during visits, and, in response to the court's inquiry, she reported that mother had told her that her own mother had had the same problem. The court also noted mother's tendency to fall asleep during the termination hearing. The testimony was that mother had not followed through with DCF's recommendation that she see a doctor about the problem.

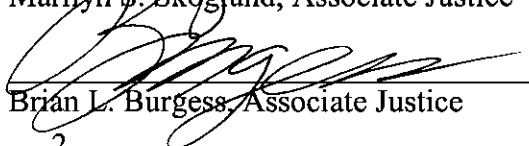
Parents complain that there was no expert evidence supporting the court's conclusion that this was an untreated medical condition. We find no basis to overturn the court's termination decision. The point of the challenged finding was not to identify a particular medical condition, but rather to identify a potential area of concern as to J.B.'s safety. It appears undisputed that, whatever its genesis, the condition was real and was well known to mother, but remained untreated. Moreover, this observation paled in comparison to the concerns identified above, which formed the principal basis for the court's decision.

Affirmed.

BY THE COURT:

  
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John A. Dooley, Associate Justice

  
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Marilyn S. Skoglund, Associate Justice

  
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Brian L. Burgess, Associate Justice