

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

VERMONT SUPREME COURT
FILED IN CLERK'S OFFICE

ENTRY ORDER

SUPREME COURT DOCKET NO. 2010-076

MAY 21 2010

MAY TERM, 2010

In re T.R., Juvenile

}
}
}
}
}
}
}

APPEALED FROM:

Caledonia Family Court

DOCKET NO. 68-12-07 Cajv

Trial Judge: M. Kathleen Manley

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

Father appeals from a protective order issued by the Caledonia Family Court. He contends the order is invalid because the court lacked subject matter jurisdiction. We affirm.

In January 2008, father and mother stipulated to an adjudication of CHINS concerning the minor, T.R. In July 2009, both parents voluntarily agreed to a termination of their parental rights. Several months later, in November 2009, the minor encountered father during a school trip to a site where father was employed. The encounter was upsetting to the minor, and she applied for an emergency protective order, which the court granted on December 3, 2009.

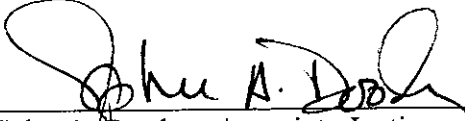
On December 15, 2009, the court approved the minor's adoption by her foster parents and issued an order transferring custody to the adoptive parents. The parties subsequently stipulated to extend the emergency protective order to a final hearing on January 28, 2010. The minor testified outside the presence of father. Father also testified, as did the minor's adoptive mother. At the conclusion of the hearing, the court entered findings on the record and issued a final order prohibiting father from contacting the minor. This appeal followed.

Father's sole contention on appeal is that the family court lacked subject matter, relying on a statutory provision that the court's jurisdiction "shall terminate automatically" upon certain events, including "the adoption of a child following a termination of parental rights proceeding." 33 V.S.A. § 5103(d)(3). Father neglects to cite the full statute, which provides: "If the child is not subject to another juvenile proceeding, jurisdiction shall terminate automatically in the following circumstances." *Id.* § 5103(d). Here, the minor had filed a motion for protective order separate and apart from the termination proceeding, and therefore was "subject to another juvenile proceeding," which remained pending and subject to the court's jurisdiction under the

statute notwithstanding the minor's adoption. Accordingly, we find no merit to the claim on appeal, and no basis to disturb the judgment.

Affirmed.


BY THE COURT:



John A. Dooley, Associate Justice



Denise R. Johnson, Associate Justice



Marilyn S. Skoglund, Associate Justice