

Note: In the case title, an asterisk () indicates an appellant and a double asterisk (**) indicates a cross-appellant. Decisions of a three-justice panel are not to be considered as precedent before any tribunal.*

ENTRY ORDER

SUPREME COURT DOCKET NO. 2021-063

JULY TERM, 2021

In re M.D., Juvenile
(K.P., Mother*)

} APPEALED FROM:
}
} Superior Court, Chittenden Unit,
} Family Division
}
} DOCKET NO. 16-1-19 Cnjv

Trial Judge: Megan J. Shafritz

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

Mother appeals from the termination of her parental rights in M.D. She argues that the trial court should have decided whether the Department for Children and Families (DCF) was responsible for her lack of progress. We affirm.

M.D. was born in February 2015. He was placed in DCF custody in 2017 based on concerns about mother's inability to meet his needs and his exposure to domestic violence, substance use, and unsafe individuals. Mother regained full custody of M.D. in October 2018 after working with DCF and engaging in services. In January 2019, M.D. was again taken into DCF custody based on the same concerns noted above as well as mother's mental health issues. Mother entered into a merits stipulation to the CHINS petition, admitting various facts, including her longstanding relationship with a man incarcerated for abusing her. Mother acknowledged her mental health issues and agreed that these issues and her continued involvement with violent men placed M.D. at risk of harm. The disposition case plan, which was adopted by the court, focused on addressing mother's struggles with drug use and addiction, working with the STEPS program on domestic violence, and maintaining safe and stable housing.

DCF moved to terminate mother's parental rights in April 2020. Following a February 2021 hearing, the court granted its request. It is undisputed that mother failed to meet the goals of the case plan. She did not follow through with services, she continued to abuse substances, she was inconsistent in visiting M.D., and she failed to secure safe and stable housing. The court found that mother had stagnated in her ability to parent and that the statutory best-interests factors supported termination of her rights. As to the most important factor, the court concluded that mother could not parent M.D. within a reasonable time. It reiterated that she made little progress during the two years that M.D. was in DCF custody. M.D. had experienced significant trauma in his life and he had been through at least eight foster placements. He was now in a loving pre-adoptive home where he was making considerable progress. The court found that M.D. needed

permanency and stability and mother had demonstrated that she could not provide for him or meet his considerable needs within a reasonable time. For these and other reasons, the court terminated mother's rights. Mother appealed.

Mother acknowledges that she failed to meet the goals of the case plan and she does not dispute the court's findings or its evaluation of the statutory best-interests factors. Instead, mother argues that, in reaching its decision, the court should have decided whether DCF provided her with reasonable assistance in overcoming the obstacles to reunification. She cites to the trial court decision, which noted her argument that she did not "receive[] enough help from DCF" and that "the system . . . failed to reunify her with [M.D.]" despite her efforts. She identifies no specific assistance that DCF failed to provide.

We find no error. The court applied the appropriate statutory standard and its decision is supported by its findings and the evidence. See In re G.S., 153 Vt. 651, 652 (1990) (mem.) (explaining that, as long as trial court applied proper standard, Supreme Court will not disturb its findings on appeal unless they are clearly erroneous and will affirm its conclusions where supported by its findings). The court found a substantial change in material circumstances since the issuance of the disposition order based upon stagnation and further concluded, based on its analysis of the factors set forth in 33 V.S.A. § 5114, that termination of mother's rights was in M.D.'s best interests. It was not required to find that DCF provided reasonable assistance to mother. See In re J.T., 166 Vt. 173, 180 (1997) (holding that specific finding to this effect is not required).

In any event, it is evident from the court's decision that DCF is not to blame for mother's failure to make progress. See id. (noting that assistance DCF provides is relevant to determining if it met its burden of showing parent cannot resume parental duties within reasonable time). The court explained that mother agreed to engage in the services DCF offered but then failed to follow through. She did not complete an application for the Lund program in a timely way despite follow-ups by DCF and Lund. She did not consistently visit M.D. and had not seen him in person since February 2020. Her family-time coaching sessions were suspended due to lack of engagement. She did not take the steps necessary to resume in-person contact with M.D. She continued to use drugs and the court specifically found that she, not DCF, bore responsibility for her relapses. She lost her Section 8 housing and her living situation remained unknown because she would not provide the name of the friend from whom she was renting a room. Based on these and other findings, the court concluded that mother failed to gain the parenting and life skills necessary to meet M.D.'s needs in the two years he was in DCF custody. The record shows that she bears responsibility for her lack of progress. To the extent mother argues that the court was required to find in its termination decision that DCF made reasonable efforts to reunify her with M.D., that argument is foreclosed by our case law. See In re D.C., 2012 VT 108, ¶ 33, 193 Vt. 101 (holding that question of "whether DCF made reasonable efforts to prevent [child's] removal from his home is a separate question from, and not a prerequisite to, the issue of whether termination of parental rights is warranted under the statutory criteria contained in § 5114(a)"); In re C.P., 2012 VT 100, ¶ 38, 193 Vt. 29 (explaining that "[t]he extent of DCF's efforts to achieve the permanency plan is

not one of the best-interests factors to be considered at termination” and “[t]hus, the court is not required to find DCF made reasonable efforts as a prerequisite to termination”).

Affirmed.

BY THE COURT:

Paul L. Reiber, Chief Justice

Harold E. Eaton, Jr., Associate Justice

William D. Cohen, Associate Justice