

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

**ENTRY ORDER**

SUPREME COURT DOCKET NO. 2002-346

DECEMBER TERM, 2002

In re T.R., Juvenile

}	APPEALED FROM:
}	
}	Franklin Family Court
}	
}	DOCKET NO. 81-4-99 Frjv
}	
}	Trial Judge: Stephen B. Martin
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}	

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

Mother appeals the family court's order terminating her parental rights with respect to her eleven-year-old son, T.R. We affirm.

T.R. was born in September 1991. He was initially placed in the custody of the Department of Social and Rehabilitation Services (SRS) in March 1997 after the family court determined that he was a child in need of care and supervision (CHINS). Termination proceedings were pending when this Court reversed the underlying merits determination. See In re T.R., 169 Vt. 574 (1999) (mem.). The state's attorney filed a new CHINS petition shortly thereafter, and T.R. remained in SRS custody. In June 2000, SRS filed a petition seeking termination at initial disposition in the second CHINS proceeding. The family court granted the petition, concluding that there had been a substantial change of circumstances and that T.R.'s best interests required terminating mother's parental rights.\*

On appeal, mother argues that the evidence does not support the family court's conclusion that terminating her residual parental rights is in T.R.'s best interest. Mother does not contest the court's conclusion that she will be unable to resume parental duties within a reasonable period of time, but she contends that the court's decision to terminate her parental rights must be reversed, given the undisputed evidence that T.R. would be emotionally harmed by a sudden end to contact with mother. Mother acknowledges that T.R.'s current foster parents are willing to adopt T.R. and to support continued contact between her and T.R., but she notes that several placements have not worked out for T.R., and that, in any case, he will not be guaranteed contact with her if her rights are terminated. See In re L.A., 154 Vt. 147, 160 (1990) (" Since visitation is a residual parental right, the termination of such rights necessarily eliminates the parent's right to visit the child." ).

We conclude that the family court's termination decision was within its discretion. The court considered the significance of T.R.'s relationship with mother and weighed that consideration against his long overdue needs for permanence and stability. The court noted that T.R. had substantial behavioral problems and special needs, but was beginning to make slow progress. According to the court, T.R. needs permanence and stability to continue that progress and maximize his healthy development. Hence, in the court's view, long-term foster care, the least desirable of the statutory alternatives, see In re A.S., 171 Vt. 369, 372 (2000), would not work for T.R. because he desperately needed " to attach and permanently settle into a forever home." The court concluded that T.R.'s need for permanency and stability was being undermined by his knowledge that mother, who will never be able to care for him, can and will keep coming to court to maintain her parental rights. Given the circumstances, the court acted within its discretion in concluding that termination of mother's parental rights was in T.R.'s best interest. Cf. In re L.A., 154 Vt. at 160 (recognizing difficulty in child starting new life if former parents retain visitation rights).

Affirmed.

BY THE COURT:

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Jeffrey L. Amestoy, Chief Justice

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John A. Dooley, Associate Justice

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Denise R. Johnson, Associate Justice