

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

**ENTRY ORDER**

SUPREME COURT DOCKET NO. 2003-100

MAY TERM, 2003

In re A.C., Juvenile

}	APPEALED FROM:
}	
}	Chittenden Family Court
}	
}	DOCKET No. 452-9-01 CnJv
}	
}	Trial Judge: David A. Jenkins
}	
}	
}	

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

Father appeals the termination of his residual parental rights in his daughter, A.C., claiming the court failed to make findings on the reasonableness of the State's efforts at reunification. We affirm.

A.C. was born on April 1, 1999, and was placed into the custody of the Department of Social and Rehabilitation Services (SRS) in September 2001. At that time, A.C. was living with her mother\* after father and mother, who were never married, separated. On September 26, 2001, the court issued a protective order allowing A.C. to live with mother and permitting father supervised visitation with A.C. In January 2002, the court removed A.C. from mother's care because mother failed to comply with the terms of the protective order. A.C. has been in foster care since that time.

After A.C.'s parents separated in 2001, the State charged father with domestic assault. Since October 2001, father has been in and out of prison for a variety of offenses, including violating the terms of his probation and violating an abuse prevention order. Father's probation officer attempted to help him further his education and improve his employment skills, but father either refused to engage in the offered programs or failed to follow through with them. The SRS case plans for A.C. called for father to maintain contact with SRS, refrain from illegal drug use, participate in anger management, domestic violence, and substance abuse treatment, obtain couples counseling, and seek parenting education. Although father completed an anger management treatment program and participated in some couples counseling, he continued to use illegal drugs, did not stay in touch with SRS concerning A.C., and otherwise failed to follow the case plan recommendations. While A.C. has been in SRS custody, father has not maintained regular contact with the agency and the agency has been unable to locate or contact him many times. In the thirteen months preceding the December 2002 termination hearing in this case, father had not seen A.C.

In its termination order, the court first concluded that father's progress toward reunification had stagnated, and thus circumstances had substantially and materially changed since A.C. was first removed from her parents' care. Analyzing the factors under 33 V.S.A. ' 5540, the court determined that A.C. has no relationship with father, father has not played a constructive role in her life, and it was unlikely that father would be able to resume his parental duties within a reasonable time. It found that father continues to abuse drugs, has no residence, is not employed, has been unable to refrain from illegal conduct leading to imprisonment, has not completed or even engaged in domestic violence and substance abuse treatment or parenting education, has failed to stay in contact with SRS, and has not demonstrated an interest in A.C.'s well-being. The court also concluded that A.C. has a positive relationship with her foster family, and has adjusted well into their home and her preschool. The court terminated father's parental rights in A.C. because it concluded that her best interests required it. Father took the present appeal.

On appeal, we review an order terminating parental rights to determine whether the court abused its discretion. In re S.B., \_\_\_ Vt. \_\_\_, \_\_\_, 800 A.2d 476, 479 (2002) (mem.). We do not second guess the court or reweigh the evidence. Id. We accept the court's findings on appeal when they are unchallenged as in this case, Bevins v. King, 147 Vt. 203, 206 (1986), and we will uphold the court's legal conclusions if the findings support them. In re A.F., 160 Vt. 175, 178 (1993). A court may terminate a parent's rights when, after finding a substantial change of material circumstances and considering the factors under 33 V.S.A. ' 5540, the court finds termination is in the child's best interests. Id. ' 5540; In re D.B., 161 Vt. 217, 219 (1993).

In this case, father claims that the court failed to make findings on the reasonableness of SRS's efforts to reunify him with his daughter. Although not required by ' 5540, the assistance SRS provides to a parent can be a factor in determining whether SRS met its burden of showing that a parent is unlikely to be able to resume parental duties within a reasonable period of time. @ In re J.T., 166 Vt. 173, 180 (1997); see also 33 V.S.A. ' 5540(3). Whether a parent can resume his or her parental responsibilities is the most important statutory factor in a termination proceeding. In re S.B., \_\_\_ Vt. at \_\_\_, 800 A.2d at 479.

Even assuming the court was required to make the findings father seeks, he fails to demonstrate how the court's omission is reversible error. See V.R.C.P. 61 (Court must disregard harmless errors). Father does not contest either the court's conclusion that he cannot resume his parental duties within a reasonable amount of time or the findings that support that conclusion. In addition, he does not explain what additional efforts SRS should have made to prompt him to follow the case plan conditions that would allow him to regain custody of A.C. The court's order shows that it carefully considered the statutory factors under ' 5540, and the findings provide ample support for the court's legal conclusions. Consequently, we find no abuse of the court's discretion in terminating father's residual parental rights.

Affirmed.

BY THE COURT:

---

Denise R. Johnson, Associate Justice

---

Marilyn S. Skoglund, Associate Justice

---

Frederic W. Allen, Chief Justice (Ret.)

Specially Assigned

---

### Footnotes

\* Mother's parental rights are not at issue in this appeal because she voluntarily relinquished them.