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

ENTRY ORDER

SUPREME COURT DOCKET NO. 2004-039

AUGUST TERM, 2004

In re M.L., Juvenile	}	APPEALED FROM:
	}	Chittenden Family Court
	}	DOCKET NO. 493-10-02 Cnjv
	}	Trial Judge: David A. Jenkins

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

Mother appeals the family court' s order terminating her parental rights with respect to her daughter, M.L. We affirm.

Mother was seventeen years old when she gave birth to M.L. in early 2001.* In October 2002, the Department for Children and Families became involved with mother after receiving information that she was using drugs and was unable to care for M.L. Upon investigation, the Department learned that mother had a serious drug problem and was incarcerated on several pending charges. Department employees also discovered that mother' s grandmother was caring for M.L. On October 22, 2002, the Department filed a petition alleging that M.L. was a child in need of care or supervision (CHINS). At a detention hearing held that same day, the family court placed M.L. in her great grandmother' s custody. M.L. was adjudicated CHINS on December 16, 2002. Mother acknowledged that her ongoing drug problems had interfered with her ability to parent M.L. She agreed to participate in drug treatment and other programs that would enable her to reunite with her daughter. In anticipation of a disposition hearing scheduled for January 28, 2003, the Department recommended a three-month reunification plan requiring mother to remain drug free, successfully complete substance abuse in-patient treatment, become involved in on-going outpatient treatment and support groups, attend a nurturing parent program, be screened for mental health issues, be enrolled in an educational and vocational assistance program, and be able to provide M.L. with a safe and permanent home. The family court continued the January 28 hearing to determine the status of mother' s criminal matters and her progress in addressing her drug problems. In the meantime, M.L. remained in her great grandmother' s custody.

On June 18, 2003, after the parties failed to reach agreement on a permanent guardianship with M.L.' s great grandmother, the child' s attorney filed a petition seeking termination of mother' s parental rights. The following month, M.L.' s attorney filed a petition to terminate the parental rights of the father, who eventually voluntarily relinquished those rights. The termination hearing was held on October 24, 2003. Mother did not appear at the hearing. The court admitted into evidence the disposition report and took testimony from a caseworker and M.L.' s great grandmother. Following the hearing, the court found by clear and convincing evidence that mother' s condition had stagnated insofar as (1) she had failed to complete programs deemed necessary for her to resume her parental duties; (2) she continued to use illegal substances to her detriment; and (3) she continued to have an unstable living situation. The court determined that mother would most likely not be able to parent M.L. within a reasonable period of time, and that the child' s best interests dictated the termination of mother' s residual parental rights. The court made additional findings and conclusions in a December 18, 2003 order.

On appeal, mother argues that the family court failed to make the required threshold determination that a substantial change in material circumstances had occurred. Mother acknowledges that an explicit finding of changed circumstances is not required, but contends that the court' s vague and cursory findings were insufficient to establish a substantial

change in material circumstances. See In re M.M., 159 Vt. 517, 522 (1993) (explicit finding of changed circumstances is not required to uphold modification order; rather, changed circumstances test is met when findings are replete with facts sufficient to meet standard); In re H.A., 153 Vt. 504, 514-15 (1990) (same). We disagree. First, the court explicitly indicated at the conclusion of the termination hearing that mother had made no substantial progress in addressing her drug problems, and that her condition with respect to resuming her parental duties had stagnated. Second, although the court' s written findings in support of its determination of stagnation were not detailed, they were neither vague nor cursory. The court found that (1) mother had been terminated from two residential drug and alcohol programs; (2) she had suffered multiple drug relapses since the termination petition was filed; (3) she had been incarcerated on several pending charges and had been stopped for drunk driving since the petition was filed; (4) she had refused to continue her schooling and had shown no interest in a parent education group; and (5) her interaction with M.L. had been inconsistent. The record supports the court' s findings and overwhelmingly demonstrates stagnation with respect to mother resuming her parental duties. See In re B.W., 162 Vt. 287, 291 (1994) (stagnation may be shown by passage of time with no improvement in parental capacity to care for child; mere fact that parent has shown some progress in some aspects of her life does not preclude finding of changed circumstances).

Mother argues, however, that, given her age and the nature of her problems, five months was not a reasonable amount of time for her to satisfy the demanding list of goals set forth by the Department and to make the necessary lifestyle changes that could lead to reunification. In making this argument, mother exaggerates the limited amount of time she had to address her problems. Mother had approximately one year, from October 2002 when M.L. was taken from her to October 2003 when the termination hearing was held, to address the problems that led to her losing her child. The record demonstrates that, in that year, mother made very little, if any, progress toward being able to care for her daughter. During that time, mother continued to abuse drugs and to engage in criminal behavior, while showing little interest in M.L. Meanwhile, M.L. had spent nearly half of her life with her great grandmother, who was providing her with a stable, secure, and loving home. These facts, as found by the court, support the court' s conclusion that mother will be unable to resume parental duties within a reasonable period of time from the perspective of the child. See In re B.M., 165 Vt. 331, 337 (1996) (reasonable period of time is considered from perspective of child' s needs).

Affirmed.

BY THE COURT:

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John A. Dooley, Associate Justice

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Denise R. Johnson, Associate Justice

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Marilyn S. Skoglund, Associate Justice

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* The family court found that M.L. was born on January 29, 2001, but mother states, and several documents in the record indicate, that M.L. was born on April 29, 2001.