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

ENTRY ORDER

SUPREME COURT DOCKET NO. 2008-005

MAY TERM, 2008

In re R.J., Juvenile	}	APPEALED FROM:
	}	
	}	
	}	Chittenden Family Court
	}	
	}	
	}	DOCKET NO. 405-9-06 Cnjv
		Trial Judge: Geoffrey Crawford

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

Father appeals the family court's order terminating his parental rights with respect to his son, R.J. We affirm.

R.J. was born in August 2006 following his parents' brief relationship during the winter of 2005-2006. The mother, who suffers from mental illness, was a resident of the Lund Family Center in Burlington, Vermont at the time of R.J.'s birth. Within two weeks of the child's birth, the family court ordered that the Department for Children and Families (DCF) take temporary custody of the child based on the Department's concerns about the mother's mental health and her inability to bond with or care for the child. At that time, R.J. was placed with a foster family, with whom he has resided ever since.

At the time of R.J.'s birth, father was living in Schenectady, New York and was no longer involved with the mother. During court proceedings in October 2006, father expressed concerns about the child but indicated that he was unwilling to acknowledge paternity without genetic testing. Father visited the child three times before the end of March 2007, when genetic testing confirmed that he was R.J.'s father. Following confirmation of his paternity, father visited the child approximately once a month by taking a bus from Schenectady to Burlington. The family court characterized this travel as long and arduous, and noted that father's visitation was impeded by its expense, competing work demands and bad weather.

In April 2007, the mother stipulated to R.J. being a child in need of care and supervision (CHINS). Based in part on the mother's expressed desire to relinquish her parental rights, the initial disposition recommended termination of parental rights as to both parents. The mother voluntarily relinquished her parental rights on May 9, but father opposed termination of his parental rights. A hearing on the petition took place on August 30 and November 21. In

December 2007, the family court issued an order granting the petition and terminating father's parental rights.

In its order, the family court acknowledged father's sincere efforts to establish a relationship with his son, but concluded that he would be unable to assume parental duties within a reasonable period of time, considering the significant period of time that had already elapsed since the child's birth, the young child's bonding with his foster family, and father's missed opportunities at playing a more significant role in the child's life. On appeal, father argues that, in considering whether he would be able to assume parental duties within a reasonable period of time, the family court failed to consider that question from the child's perspective. According to father, given the court's recognition that he had the potential to be an excellent parent, and absent any evidence indicating that R.L. would be harmed by further delay before being transitioned to his father's care, the court's determination that a reasonable period of time had already passed is premature and unsupported by the evidence.

Like the family court, we acknowledge father's unfortunate situation, but conclude that both the law and the record support the court's judgment that termination of father's parental rights is necessary because father will be unable to assume parental duties within a reasonable period of time. We agree with father that a "reasonable period of time" is forward-looking and must be examined from the perspective of the child. In re B.M., 165 Vt. 331, 337 (1996). But this does not mean that past events are irrelevant as to whether a parent will be able to resume parental duties within a reasonable period of time. Id. Hence, a parent's past failure to establish a significant relationship with a child may be a critical factor in determining whether that parent will be able to assume parental duties within a reasonable period of time from the perspective of a child who has no bond with that parent and who has established a bond over a significant period of time with a foster family. See id.

In this case, the child has spent his entire life—approximately fifteen months at the conclusion of the termination hearing—with the same foster family that wants to adopt him. Meanwhile, father has been unable to play a constructive role in the child's life and has visited the child only about eight or ten times during the child's life. While acknowledging the difficulty father encountered in visiting his son from out of state, the family court found that father had failed, or was unable, to take advantage of opportunities that would have allowed him to establish a meaningful relationship with his son, including relocation and more frequent visits. Nor had he been able to confirm, notwithstanding DCF's efforts to have New York officials conduct a home study, that he could provide a safe and stable home for the child in Schenectady. Indeed, nothing in the record indicates that father's current or future circumstances would result in anything more than an extension of indefinite foster care for a very young child who had already spent his life, so far, in foster care. Accordingly, the record supports the family court's conclusion, based on clear and convincing evidence, that father would not be able to assume parental duties within a reasonable period of time.

Notwithstanding father's suggestion to the contrary, we have never held that the family court is foreclosed from concluding that a parent will be unable to resume parental duties within a reasonable period of time without first finding that the child would be emotionally traumatized by a transition to that parent's care. Although the state may not take children from their parents absent clear and compelling evidence that their safety and welfare requires it, Vermont child

protection laws presume that stability and permanence are in children's best interests. See 33 V.S.A § 5501(a)(4) (citing "safety and permanency of children" as "the paramount concern" in juvenile proceedings). This is particularly true for young children. It is undisputed in this case that father had very limited contact with R.J. over the course of the child's life, during which time the child bonded with the only family he has ever known. Nothing in the record suggests either that father made any significant progress during this time period toward assuming parental duties or that he would be able to establish a significant relationship with, or provide a stable and permanent home for, the child in the foreseeable future. Under these circumstances, the family court did not err in granting DCF's termination petition. The court examined the relevant statutory criteria in determining R.J.'s best interests, and the record supports its conclusions and termination order based on those criteria. See 33 V.S.A. § 5540.

Affirmed.

BY THE COURT:

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Paul L. Reiber, Chief Justice

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John A. Dooley, Associate Justice

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Brian L. Burgess, Associate Justice