

found that mother's romantic life was confusing to the children, and that D.B. responded very negatively to "Uncle Paul's" presence in the home.

While DCF provided mother with numerous services, mother made no progress in her ability to parent. In fact, her parenting ability deteriorated over time and she was unable to manage the children. At one point, she told the boys that she did not want them any more. Mother did not follow through with plans developed by the intensive family-based services, and as a result, the children's behavior worsened. In contrast to the unstable and chaotic living environment with mother, the court found that the children had been placed in a loving foster home, where they were doing very well. D.B., for example, had been so successful that he was allowed to move from an alternative school for children with behavior issues to a regular school. He no longer was considered clinically withdrawn and depressed and his one-on-one school aide and depression medication were discontinued.

Based on these and other findings, the court concluded that mother had stagnated in her ability to parent, she would not be able to parent within a reasonable period of time, and that termination of her residual parental rights was in the children's best interests. Despite hundreds of hours of parenting instruction, guidance, and observation, the court explained, mother was no closer to being able to parent the children than she was at the beginning of the case. Her inconsistent behavior and chaotic lifestyle remained firmly intact. Mother lacked a stable home, and despite months in counseling, she still had no insight whatsoever into how her romantic relationships affected the children. While mother had the desire to provide the children with love, affection and proper parental guidance, she could only do so for short periods of time. Her inability to provide for the children's needs over a long period of time adversely affected the children and caused them great harm. The children were now receiving, in their foster home, the love, affection, guidance, and stability that they needed. The court thus concluded that termination of mother's residual rights was in the children's best interests. Mother appealed from this order.

Mother argues that the court failed to adequately consider two statutory factors in reaching its conclusion, namely "[t]he interaction and interrelationship of the child with his or her parents, siblings, foster parents, if any, and any other person who may significantly affect the child's best interests"; and "[w]hether the parent has played and continues to play a constructive role, including personal contact and demonstrated emotional support and affection, in the child's welfare." 33 V.S.A. §§ 5114(a)(1), (4) (these are the slightly amended and recodified criteria, effective January 1, 2009, that were previously codified at 33 V.S.A. § 5540 (2001)). She suggests that the family court was obligated to weigh the children's need for adoption against the benefits of continued parent-child contact in reaching its conclusion. Mother also asserts that the court's findings about her poor parenting skills are not relevant to whether she played a constructive role in the children's lives.


These arguments are without merit. As we have often repeated, when the termination of parental rights is sought, the trial court must conduct a two-step analysis. *In re B.W.*, 162 Vt. 287, 291 (1994). The court must first find that there has been a substantial change in material circumstances; second, the court must find that termination of parental rights is in the child's best interests. *Id.* To determine the best interests of the child, the court must consider four statutory factors. 33 V.S.A. § 5114. The most important factor is the likelihood that "the natural parent

will be able to resume parental duties within a reasonable period of time.” In re B.M., 165 Vt. 331, 336 (1996). As long as the court applied the proper standard, we will not disturb its findings on appeal unless they are clearly erroneous; we will affirm its conclusions if they are supported by the findings. In re G.S., 153 Vt. 651, 652 (1990) (mem.).

The court applied the proper statutory standard here and its findings support its conclusion. Mother does not challenge the court’s evaluation of the most important statutory factor, nor its conclusion that she cannot parent the children within a reasonable period of time. Her suggestion that the court failed to adequately consider two of the remaining statutory factors is without merit. With respect to the children’s relationship and interaction with mother, the court found that while mother loved the children, she was unable to put their needs before her own. She continued to engage in behavior that was injurious to the children, and she lacked insight into her destructive actions. The court could fairly rely on these findings as support, not only for its evaluation of the first statutory factor, but also as support for its conclusion that mother has not played a constructive role in the children’s lives. The evidence is necessarily overlapping. With respect to the latter statutory factor, we note that the court also found, among other things, that the children’s behavior worsened due to mother’s inconsistent behavior and her failure to follow through with various parenting programs. The court’s findings plainly demonstrate that she did not play a constructive role in the children’s lives. Finally, we reject mother’s assertion that the court was obligated to make a finding that “the children’s need for adoption outweighs the benefits of continued parent-child contact.” The statute imposes no such requirement. See 33 V.S.A. § 5114 (setting forth statutory factors); see also In re T.M. & E.S., No. 2008-225, slip op. at 3-4 (Vt. Oct. 2, 2008) (unreported mem.) (rejecting same argument). The court’s decision is amply supported by its findings, which are in turn supported by the record, and we find no error.

Affirmed.

BY THE COURT:



Paul L. Reiber, Chief Justice



Denise R. Johnson, Associate Justice



Brian L. Burgess, Associate Justice