

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

ENTRY ORDER

SUPREME COURT DOCKET NO. 2010-302

DECEMBER TERM, 2010

In re C.G., C.G. and C. G., Juveniles	}	APPEALED FROM:
	}	
	}	Superior Court, Rutland Unit
	}	Family Division
	}	
	}	
	}	DOCKET NO. 134/135/136-9-08 Rdjv

Trial Judge: Nancy S. Corsones

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

Mother appeals the termination of her parental rights with respect to her three children. We affirm.

The children were born in February 2003, August 2004, and October 2005. In March 2008, the Department for Children and Families (DCF) became involved with the family based on allegations that the children were being left with known substance abusers and substantiated sex offenders. Each child displayed signs of behavioral, educational, and developmental problems. They were placed in foster care for approximately one month and then returned home. Shortly thereafter, mother and the father divorced. In September 2008, DCF filed a CHINS (child in need of care or supervision) petition concerning all three children when it was discovered that one of the children had genital warts, which were likely contracted as a result of sexual abuse. The children were placed together in the foster home where they have remained ever since. The family court transferred custody of the children to DCF and later found them to be CHINS based on the parents' failure to protect them from substantiated sex offenders, including mother's boyfriend. Neither parent attended the disposition hearing in December 2008, after which the court entered a disposition order approving continued DCF custody and a reunification plan. Mother consistently visited the children in the first six months of 2009, but then the visits became sporadic in the summer of 2009 before picking up in the fall of that year. The visits became sporadic again in December 2009, and mother last saw the children in February 2010. She moved from the area without notifying DCF or the children. In October 2009, DCF filed a petition seeking termination of both the father's and mother's parental rights. Following a termination hearing, which neither parent attended, the court terminated the rights of both parents. Only mother appeals.

Mother argues that DCF presented insufficient evidence, and the trial court made inadequate findings regarding the potential effect on the children of cutting off the strong bond they had with mother. According to mother, given the court's acknowledgement that it was emotionally wrenching for the children to leave mother at the end of visits, the court was obligated to address the ongoing emotional role that mother had in the children's lives and the possible negative impact of having their connection with her cut off. We find no merit to this argument. The court considered each of the statutory "best interest" factors set forth in 33

V.S.A. § 5114(a), including factors (2) and (4) relating to the children’s interaction and interrelationships with others, particularly the parents, and the nature of the role of each parent in the children’s lives. The court noted the periods when mother visited the children regularly, and further noted that at times mother did not want to let go at the end of visits, which would cause the children to cry and carry on. The court also found, however, that (1) mother’s visits became sporadic, and she eventually moved away without contacting the children; (2) children acted out less after visits ceased; (3) mother failed to address any of the issues that had caused harm to the children and led to their removal from her care; (4) mother would not be able to provide a safe or stable environment for the children; and (5) mother had not played a constructive role and had not demonstrated love and affection for the children in many months prior to the termination hearing. Overall, the court’s findings and conclusions, which were supported by clear and convincing evidence, demonstrated that any bond between mother and the children was not a constructive one and did not pose any obstacle to terminating parental rights so as to allow the special needs children to continue to prosper in the care of their foster family. This is plainly not a case where “a loving parental bond will override other factors in determining whether termination of parental rights is the appropriate remedy.” Cf. In re J.F., K.F., K.F. & J.F., 2006 VT 45, ¶ 13, 180 Vt. 583 (mem.) (noting that while in some cases loving parental bond will override other factors, that was not situation here where evidence and findings plainly demonstrated that parental bond had harmed children).

Affirmed.

BY THE COURT:

Paul L. Reiber, Chief Justice

John A. Dooley, Associate Justice

Denise R. Johnson, Associate Justice