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ENTRY ORDER

SUPREME COURT DOCKET NO. 2005-158

AUGUST TERM, 2005

In re C.C., Juvenile }
 } APPEALED FROM:
 }
 }
 } Chittenden Family Court
 }
 }
 } DOCKET NO. 385-8-04 CnJv
 }
 } Trial Judge: Dean B. Pineles

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

Father appeals from an order of disposition transferring custody and guardianship of his daughter, C.C., to the Commissioner of the Department for Children and Families (DCF). Father contends that the juvenile court erred by not transferring custody of C.C. to her grandparents instead. We affirm.

C.C. is a toddler whose parents stipulated to a finding that she was in need of care and supervision (CHINS) in late September 2004. From the age of three months, C.C. had regular contact with her paternal grandparents. She resided with them from August 9, 2004, to September 7, 2004, while in DCF=s temporary legal custody. Mother is addicted to heroin and relapsed in October 2004, leading DCF to move C.C. to a legal-risk foster home. C.C. has remained in that home ever since.

The juvenile court conducted a three-day contested hearing on the appropriate disposition for C.C. C.C.=s grandparents sought custody of the child. DCF opposed their request and urged the juvenile court to continue C.C. in DCF custody, with placement in her current foster home. DCF=s opposition to grandparents= petition arose from concerns about the medications grandparents must take to address a variety of ailments. Grandfather receives pain management treatment due to a workplace injury. His treatment includes taking large quantities of the painkiller Percocet. Grandmother has been diagnosed as suffering from post-traumatic stress disorder, depression, fibromyalgia, and chronic pain syndrome. She takes several medications for her illnesses, including morphine and diazepam. DCF presented evidence that C.C.=s grandparents did not follow through on their application to become a licensed foster home, something DCF required before supporting their request for custody. The agency also presented evidence of C.C.=s improved behavior and adjustment while in the care of her foster parents.

After the evidence closed, the juvenile court rendered findings on the record. Its findings show that C.C.=s mother was ambivalent about where C.C. should live. It found that in October 2004, grandmother expressed concern to DCF about her ability to care for C.C. on a full-time basis. Grandmother=s physical pain sometimes prevents her from even standing upright. The court found that grandmother and grandfather wanted continued visitation with C.C. regardless of the court=s disposition decision. It noted that grandparents submitted and withdrew an application for a foster care license during the fall of 2004, a critical time in C.C.=s life considering her tender age. In ordering C.C. to remain in DCF=s legal custody, the court explained that it continued to have concerns about grandparents= medical conditions and the Apowerful medications@ they take. ABut most importantly,@ the court explained, Athe child=s life has moved on while there was ambivalence and delay and lack of follow-through on the part of the grandparents.@

Recognizing the child's positive relationship with her grandparents, the court stated its willingness to order reasonable visitation between them. The present appeal followed the court's disposition order.

On appeal, father challenges the juvenile court's findings and its ultimate conclusion that C.C.'s best interests rest in remaining in DCF legal custody. We review the court's findings for clear error. Even if contradictory evidence exists, this Court will affirm the findings if they are supported by any credible evidence. In re A.F., 160 Vt. 175, 178 (1993). Evidentiary weight and credibility are, however, discretionary determinations for the juvenile court to make. Id. Finally, we will let legal conclusions stand on appeal if the findings support them. Id.

Section 5528 of Title 33 sets forth the disposition options for children adjudicated CHINS. The juvenile court may permit a child to remain with her parents, place the child in protective supervision, or transfer legal custody and guardianship of the child to DCF, a licensed foster or group home, or any other person deemed qualified by the court to assume responsibility for the child. 33 V.S.A. ' 5528(1)-(3); see also In re J.D., 165 Vt. 440, 443 (1996) (explaining that ' 5528(a)(3)(B) allows juvenile court to transfer custody of a CHINS child to an individual the court finds is qualified to provide care). The disposition ordered must be the most suited to the protection and physical, mental and moral welfare of the child. 33 V.S.A. ' 5528(a); In re J.D., 165 Vt. at 442. Disposition decisions are discretionary, and this Court requires the juvenile court to use its A[b]est judgment, rather than perfection, as the guiding standard. In re J.D., 165 Vt. at 444-45.

Father claims that the court ordered DCF custody for C.C. based on erroneous findings that: (1) DCF placed C.C. with her foster family to accommodate mother's wishes; (2) grandmother's mental health evaluation did not take place until after the first disposition hearing; and (3) grandparents did not follow through on obtaining a foster-care license while C.C. was in foster care. The record contains evidence on these points, and although the evidence may be conflicting, there is no basis to overturn the findings. Moreover, as this Court has stated repeatedly, erroneous factual findings do not compel reversal unless the remaining findings fail to support the juvenile court's conclusions. In re C.M., 157 Vt. 100, 103 (1991); In re A.F., 160 Vt. at 178-79. Thus, even if the findings father challenges lacked evidentiary support, the juvenile court's disposition order must be affirmed if the remaining findings support the court's decision. In re A.F., 160 Vt. at 178-79.

Here, the court found that grandmother and grandfather both have physical ailments and that grandmother has mental health issues that require significant medication. Grandmother's chronic pain sometimes limits her ability to even stand up. C.C. is a young child who, the court noted, has spent a substantial portion of her life with her current foster family. The court recognized that while C.C.'s best interests require that she maintain a relationship with her grandparents, DCF legal custody with placement in foster care was the disposition most suited to protect the child's physical and mental well being under the circumstances. Because the findings support the court's conclusion on C.C.'s best interests, no reversible error appears.

Affirmed.

BY THE COURT:

Paul L. Reiber, Chief Justice

John A. Dooley, Associate Justice

Marilyn S. Skoglund, Associate Justice

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