

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

**ENTRY ORDER**

SUPREME COURT DOCKET NO. 2001-479

MARCH TERM, 2002

In re N.L., Juvenile

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APPEALED FROM:

Franklin Family Court

DOCKET NO. 199-12-97 Frjv

Trial Judge: Jane Dimotsis

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

Mother appeals the termination of her parental rights to N.L., arguing that the Franklin Family Court erred in its conclusion that continued contact between her and N.L. was not in the child's best interests. We affirm.

N.L. was seven years old when he was placed in the custody of the Commissioner of Social and Rehabilitation Services ("SRS") in 1997. Prior to SRS's intervention, N.L. resided with mother and mother's boyfriend, B.L., who abused both N.L. and mother. N.L.'s biological father is unknown. Initially, SRS placed N.L. with mother after B.L. left the home and mother obtained a relief-from-abuse order against him. Eventually, B.L. moved back into the home, and SRS prepared a plan of services for him and mother. Neither mother nor B.L. complied with the plan. N.L.'s behavior eventually deteriorated to the point that he required long-term treatment at a residential facility called Baird Center.

While N.L. was at Baird, mother's visits with him were positive. Mother arrived to the visits on time and had plans for them, often asking N.L. for his input on what they should do together. On the rare occasion that mother could not make a visit, she would reschedule the visits in advance and would tell N.L. of the change in an appropriate manner. She supported the therapeutic goals of N.L.'s treatment team and worked well with them. Overall, mother's love and support were constructive to N.L.'s welfare during his stay at the Baird Center.

Although mother's visits were positive for N.L. while he was at Baird, she failed to fulfill the requirements of SRS's plan of services on a consistent basis. Consequently, in November 1999, SRS petitioned the court to terminate mother's parental rights. The court held hearings on the petition in January and early February 2000, and issued its order denying SRS's request on March 29, 2000. The court determined that mother could not resume her parental duties within a reasonable period of time, but concluded that termination was not in N.L.'s best interests because N.L. benefitted from visits with his mother. The court's order anticipated that mother would continue to play a constructive role in N.L.'s life through supervised visits and that she would continue to cooperate with N.L.'s caregivers, including his new legal-risk foster parents.

Visits between mother and N.L. changed after the termination hearings ended, and N.L. was released from Baird to his foster parents in February 2000. Mother was up to twenty minutes late to the first several one-hour visits, which usually began at SRS's office. Mother also missed several visits for reasons the court found were "poor excuses." Mother would take N.L. to an arcade, which N.L. enjoyed, but which caused him to become very stimulated and excited. During one visit in April 2000, N.L. confronted mother for the first time about her role in the abuse he suffered while in her care.

N.L. asked mother why she did not make B.L. leave so N.L. could come home to live with her. Mother responded defensively, asking N.L. why she should leave B.L., and stated that N.L.'s brother received worse abuse than N.L. On one occasion, mother brought B.L. with her to a visit despite her knowledge that B.L. was not allowed to have contact with N.L.

Before and after his visits, N.L. would be hyperactive and upset. He would have trouble falling asleep after visits and would become aggressive at school the following day. After seeing his mother, N.L. would often turn over pictures of her he kept in his room so he could not see her face. In mid-March, he gave the pictures to one of his foster parents to destroy. Members of N.L.'s treatment team became concerned about N.L.'s behavior resulting from the visits and tried to talk with mother to address the concerns. Mother did not respond to those overtures, however.

Due to the deterioration in N.L.'s relationship with mother, SRS asked the court to terminate mother's parental rights. The court took evidence on the matter on November 29, 2000, January 31, 2001, and February 2, 2001. In addition to its findings on the evidence presented during the three-day hearing, the court adopted the findings in its previous order denying SRS's first termination petition. Together the findings led the court to conclude that the interaction between mother and N.L. was no longer constructive for N.L. The court concluded that termination was in N.L.'s best interests because it was not appropriate for the child to suffer further anxiety surrounding visits with his mother, who could not resume her parental duties within a reasonable period of time. Mother timely appealed.

On appeal, we will affirm the court's termination decision if the court's findings support its conclusions. In re D.M., 162 Vt. 33, 38 (1994). Mother does not challenge the court's findings or conclusion that she cannot resume her parental duties within a reasonable time, the critical factor in determining whether termination is in a child's best interests. 33 V.S.A. 5540(3); In re B.M., 165 Vt. 331, 336 (1996). Mother's claim centers on her contention that N.L.'s need for permanency could be met without terminating her rights. She asserts that continued visitation would allow her and N.L. to come to terms with a painful history and that doing so is in N.L.'s best interests.

Nothing in the statutes governing child abuse and neglect proceedings mandates that "the parent-child bond be maintained regardless of the cost to the child." In re M.B., 162 Vt. 229, 238 (1994) (public policy does not dictate that parent-child bond be maintained at all costs). The court's findings in this case demonstrate that maintaining contact between N.L. and mother had become too costly to the child's well being. In contrast to the positive effect the visits had while N.L. resided at Baird, the post-Baird visits provoked extreme anxiety in N.L. He had trouble sleeping and began acting out. The court's denial of SRS's first termination petition was grounded solely on the expectation that continued visitation between N.L. and mother would benefit N.L. Those expectations were not fulfilled. The court's findings note that mother admitted that her relationship with N.L. deteriorated. The court appropriately weighed the loss of contact with mother against the benefits N.L. received through visits with her. The balance weighed in favor of severing N.L.'s ties with mother. Because the court's findings support its conclusion, we find no error in its order terminating mother's parental rights to free N.L. for adoption.

Affirmed.

BY THE COURT:

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Jeffrey L. Amestoy, Chief Justice

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John A. Dooley, Associate Justice

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Denise R. Johnson, Associate Justice