

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

**ENTRY ORDER**

SUPREME COURT DOCKET NO. 2005-005

JUNE TERM, 2005

In re D.L. and S.L., Juveniles

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APPEALED FROM:

Caledonia Family Court

DOCKET NO. 51/52-8-03 Cajv

Trial Judge: Alden T. Bryan

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

Mother and father appeal from a family court order terminating their parental rights to the minors D.L. and S.L. They contend the court failed to exercise its best judgment by choosing a disposition that may result in long-term foster care. We affirm.

The material facts may be briefly summarized. D.L, born in December 1998, and S.L., born in April 2003, came into the custody of the Department of Children and Families in August 2003, following reports of neglect. In September 2003, the parents stipulated to an adjudication of CHINS based on physical abuse of D.L. and medical neglect of S.L. In October, DCF prepared a case plan providing for numerous services, but changed the goal to termination by January 2004, based on inadequate progress. A three-day termination hearing was held in August 2004.

Testimony at the hearing disclosed as follows. Mother suffers from severe cognitive limitations, and father from chronic alcoholism, that have prevented them from providing a safe or stable environment for the children in the past, and render them unable to resume parental responsibilities within a reasonable period of time in the future. When he came into DCF custody, D.L.=s behavior was described by his case worker as out of control. He was aggressive, unable to relate socially, fearful, soiled himself and smeared feces, exposed himself, and exhibited other highly sexualized and inappropriate behavior. He was placed in a foster home with a very experienced foster mother able to provide both structure and emotional support. The case worker and foster mother testified that D.L. had made substantial progress, and the foster mother testified that she and her husband planned to continue to care for D.L., and were open to the possibility of adoption. S.L. was placed in a separate foster home. She was underweight at the time and failing to develop or thrive, but has made substantial progress with her foster parents, who hope to adopt.

In a written decision the court, following an extensive recitation of the evidence and findings, reviewed each of the relevant statutory criteria and reached the conclusion that termination of parental rights was in the best interests of the children. The parents, on appeal, have challenged none of these findings. Their sole contention on appeal is that the court failed to exercise its best judgment by terminating parental rights and releasing D.L. for adoption despite the foster mother=s reluctance to make a firm commitment to adopt, thereby allegedly condemning D.L. to the possibility of long-term foster care.

The claim lacks merit. A[W]e have repeatedly stated >that a valid termination of parental rights does not depend on the availability of permanent foster care or adoption.= @ In re S.B., 174 Vt. 427, 430 (2002) (mem.) (quoting In re

D.M., 162 Vt. 33, 40 (1994)); see also In re E.B., 158 Vt. 8, 15 (1992) (termination of residual parental rights does not depend on alternative placement). There is no requirement that the court predicate its ruling on the certainty of adoption, nor contrary to the parents' assertion as it required in a termination of parental rights proceeding to consider the foster parents' suitability as adoptive parents under the criteria set forth in 15A V.S.A. ' 2-203(d). Furthermore, although not essential to the court's ruling, we note that the record evidence does not support the parents' assertion that D.L.'s prospects for adoption are highly questionable. @ D.L.'s foster mother testified that she and her husband were considering adoption, and were otherwise committed to meeting D.L.'s needs in the future. Accordingly, we discern no basis to disturb the judgment.

Affirmed.

BY THE COURT:

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Paul L. Reiber, Chief Justice

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Denise R. Johnson, Associate Justice

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Marilyn S. Skoglund, Associate Justice