

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

ENTRY ORDER

SUPREME COURT DOCKET NO. 2005-419

MAY TERM, 2006

In re K.A.

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APPEALED FROM:

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Windham Family Court

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DOCKET NO. F140-11-04 Wmjv

Trial Judge: Katherine A. Hayes

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

Father challenges the family court=s decision to continue legal custody of K.A. with the Department for Children and Families, arguing that the court failed to make any affirmative findings that father could not meet the treatment, rehabilitation and welfare needs of K.A. We affirm.

The parties do not contest the following facts. K.A. initially came into contact with DCF as a result of physical altercations with her mother. Most recently, K.A. had a fight with her mother, admitted to reckless

endangerment, and was found delinquent. She was placed in a foster home but ran away, and was then placed in a detention center. After a period of time in the detention center K.A. was scheduled to participate in a rehabilitative program based on a wilderness camp experience. While awaiting placement in the program, she went to another foster home and succeeded there. During this time, she had contact and with both her father and her paternal grandmother. While K.A.'s relationship with her father is of relatively recent vintage, it is a positive one, and K.A. has had a positive relationship with her paternal grandmother throughout her life.

Based on these factors, DCF recommended that K.A. complete the wilderness camp program and then be placed with her father and paternal grandmother. Father believes that K.A. should be placed with him and his mother now without being required to complete the camp program. A contested disposition hearing was held on June 9 and July 28, 2005. The evidence touched on the features of the camp program and the strength of K.A.'s relationships with her father and grandmother. The family court concluded that completion of the camp program was in K.A.'s interests and adopted the DCF plan.

On appeal, father argues that the family court's decision is contrary to the policy goal of placing juveniles in the least restrictive and most family-like setting available. See In re J.M., 2005 VT 62, & 9. Father points to the fact that while the DCF caseworker testified that he thought the camp was an appropriate placement for K.A., the caseworker did not take the position that the camp was superior to placement in the home. Father argues that, while the family court in J.M. found that there was no less restrictive program that could meet J.M.'s needs, the family court in this case made no such finding and, in fact, the evidence did not support such a finding.

The disposition most suited to meet the [juvenile's] needs is a discretionary decision the family court must make after considering the options the parties present. @ In re J.M., 2005 VT 62, & 9. Accordingly, we will affirm a decision of the family court that is within the court's discretion and is supported by the record. Id. Here, the family court considered its obligation under 33 V.S.A. ' 5529 A to make the disposition most suited to the juvenile's treatment, rehabilitation and welfare, @ and concluded that these goals were best met by adopting the plan proposed by DCF. In particular, the court emphasized that while K.A. was good at adapting to change,

she had not yet had the experience of making a sustained effort to succeed in a placement. Remaining in the camp program until its completion would achieve this goal; allowing K.A. to leave early would not. Further, there is no evidence that placement with father would replicate important aspects of the camp program, such as the emphasis on discipline and self-reliance, and the availability of a program psychologist.

Thus, while the camp program is not Asuperior@ to placement in the home in any general or permanent sense, at this point in K.A.=s rehabilitation, her completion of the camp program offers therapeutic benefits that immediate reunion with K.A.=s father and grandmother would not. The family court determined that those additional benefits were critical to K.A.=s ultimate success upon return to her family. The decision to require K.A. to complete the camp program was within the court=s discretion and is supported by the record.

Affirmed.

BY THE COURT:

Paul L. Reiber, Chief Justice

Marilyn S. Skoglund, Associate Justice

Brian L. Burgess, Associate Justice

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