

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

ENTRY ORDER

SUPREME COURT DOCKET NO. 2006-163

AUGUST TERM, 2006

In re A.S., Juvenile

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APPEALED FROM:

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Chittenden Family Court

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DOCKET NO. F473-9-04 CnJv

Trial Judge: David A. Jenkins

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

Father appeals the family court=s order terminating his parental rights with respect to his daughter, A.S.

We affirm.

A.S. was born on September 19, 2004 and taken into state custody eight days later because of concerns about the mother=s drug use and suspicious bruising on the child=s head. The child was placed in a foster home, where she has lived ever since. The mother voluntarily relinquished her parental rights in February

2005. At a May 2005 contested merits hearing concerning father, the family court concluded that A.S. was a child in need of care and supervision (CHINS). The Department for Children and Families recommended termination of father=s parental rights in the initial disposition proceeding. Following two days of hearings, the family court issued a lengthy written order terminating father=s parental rights.

On appeal, father argues that the family court=s order must be reversed because the court based its conclusion that father would be unable to assume parental duties within a reasonable time on its unsupported finding that A.S. cannot afford to wait any longer. According to father, because the court=s findings indicate that he has progressed from being uninterested and unengaged to visiting his daughter regularly and being receptive to advice, the critical question is whether the child will be harmed by having to wait a little longer for permanency to see if father is able to parent in the near future. In father=s view, given his progress and the complete lack of evidence indicating that the child will be harmed by delaying permanency, the court=s conclusion that he will be unable to parent within a reasonable period of time cannot stand.

We find no support for father=s argument in the record or the law. There was overwhelming undisputed evidence documented in great detail by the family court demonstrating that (1) father had a long criminal history in a three-state area for offenses involving drugs, weapons, and violence; (2) father was currently wanted in New York for resisting arrest and assaulting a police officer; (3) father had a long history of domestic violence against mother, and yet continued to deny any wrongdoing or to acknowledge any responsibility for the many altercations that continued to occur; (4) father had failed to visit, and took no interest in, his daughter until the mother voluntarily relinquished her parental rights, and even then did not consistently visit the child until June or July 2005; (5) father demonstrated deficiencies in parenting during his visits with his daughter; and (6) despite his significant and ongoing problems with respect to drug abuse, domestic violence, and parenting, father at all times refused to engage in any services aimed at addressing his needs in these areas. The court further found that A.S. had been in the same foster home for nearly her entire life, and had bonded with that family as she grew from an infant to a toddler, and that, in contrast, father had no positive or constructive relationship with the child, and was not in a position to provide her a home within any time frame. Given these undisputed facts, the court concluded that father would be unable to assume parental duties within a reasonable period of time.

Notwithstanding father=s suggestion to the contrary, the family court was not required to make findings on whether the child would be harmed in the event permanency was delayed for a few months; rather, the court was required to address only the best-interests criteria contained in 33 V.S.A. ' 5540, particularly the question of whether father would be able to assume parental duties within a reasonable period of time as measured from the needs and situation of the child. The evidence, as found by the court, plainly demonstrated that the child had bonded to a foster family with whom she had spent her entire life, while father refused all services and remained in complete denial concerning his deficiencies as a parent, making it highly unlikely that he would be able to assume parental duties within any time frame. Cf. In re J.T., 166 Vt. 173, 180 (1997) (family court was required to make findings on criteria contained in ' 5540, which did not include whether Department had made reasonable efforts to assist parent). In short, the court=s findings and conclusions directly addressed the relevant statutory criteria and fully supported its termination order. Cf. In re J.S. & S.S., 168 Vt. 572, 574 (1998) (mem.) (upholding termination order based on parent=s lack of progress and child=s tender age and exceptional needs).

Affirmed.

BY THE COURT:

Paul L. Reiber, Chief Justice

John A. Dooley, Associate Justice

Denise R. Johnson, Associate Justice