

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

ENTRY ORDER

SUPREME COURT DOCKET NO. 2007-389

FEBRUARY TERM, 2008

Jeffrey Sullivan	}	APPEALED FROM:
	}	
	}	
v.	}	Windsor Family Court
	}	
	}	
Liza Sullivan (McSwain)	}	DOCKET NO. 202-5-04 Wr dm

Trial Judge: Harold E. Eaton, Jr.

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

In this divorce action, father appeals the family court’s order denying his motion to terminate parental rights with respect to the parties’ two children, one of whom has reached the age of majority. We affirm.

The parties were married in 1986 and divorced in 2006. The family court incorporated into the final divorce order a stipulation regarding parental rights and responsibilities that father initially agreed to but ultimately refused to sign. The stipulation called for mother to have sole legal rights and responsibilities and father to have parent-child contact. Following issuance of the final divorce order, father filed a motion to terminate parental rights, claiming that it was in the children’s best interests because mother was engaging in conduct that amounted to parental alienation. The family court denied the motion, ruling that it did not have jurisdiction to consider father’s motion in the context of a divorce proceeding. Father appeals that ruling.

As a preliminary matter, we reject mother’s argument that father’s appeal was untimely filed. Within ten working days of the family court’s initial order denying father’s motion to terminate parental rights, father filed a motion to reconsider the court’s ruling. The court denied the motion to reconsider in an August 27, 2007 order, and father filed a notice of appeal within thirty days of that order. Because father’s motion to reconsider was filed within ten days of the initial order, it was effectively a motion to alter or amend that order and thus tolled the running of the time period for filing a notice of appeal until the court issued its order denying the motion to reconsider.

Nevertheless, we find no merit to father’s appeal. As the family court ruled, there is no authority for a parent to seek termination of parental rights in the context of a divorce proceeding. Although the family court “may order parental rights and responsibilities to be

divided or shared between the parents on such terms and conditions as serve the best interests of the child,” see 15 V.S.A. § 665(a), there is no provision for the court, in the context of a divorce proceeding, to consider a parent’s motion to terminate parental rights. Accordingly, the court did not err in denying father’s motion without addressing its merits.

Affirmed.

BY THE COURT:

John A. Dooley, Associate Justice

Denise R. Johnson, Associate Justice

Marilyn S. Skoglund, Associate Justice