



*Note: In the case title, an asterisk (\*) indicates an appellant and a double asterisk (\*\*) indicates a cross-appellant. Decisions of a three-justice panel are not to be considered as precedent before any tribunal.*

**ENTRY ORDER**

JANUARY TERM, 2023

In re M.P., D.P., A.P, Juveniles (S.P., Mother*)	}	APPEALED FROM:
	}	
	}	Superior Court, Windham Unit;
	}	Family Division
	}	CASE NOS. 20-JV-00056; 20-JV-00057; 20-JV-00058
		Trial Judge: Elizabeth D. Mann

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

Mother appeals a family division order terminating her parental rights to M.P., D.P., and A.P., born in May 2011, April 2014, and July 2019, respectively. On appeal, mother argues that the court’s findings and conclusions related to the children’s best interests were erroneous because the court failed to consider the relationships that the children have with each other and with mother. We affirm.

The family division made the following findings. The Department for Children and Families (DCF) became involved with mother and her children in 2019 due to concerns about mother’s mental abuse of M.P., her partner’s abuse of D.P., and the children’s mental health. In June 2020, the State filed a petition alleging that the children were in need of care or supervision (CHINS) due to mother’s substance use, mental-health needs, and choice of unsafe partners. Initially, the children remained with mother pursuant to a conditional custody order. In September 2020, custody of the children was transferred to DCF after mother was arrested and charged with assaulting her partner in front of the children. Following a contested hearing, in November 2020, the court found that the children were CHINS because they were without proper parental care. The initial disposition order had a goal of reunification with mother. The disposition plan required mother to address her mental-health issues and engage in weekly therapy, to learn how to safely parent the children, to establish financial security and stable housing, and to engage with DCF in case planning. Based on mother’s lack of compliance with the case plan and the ongoing safety risks to the children, in September 2021, the State sought to change the case plan goal to adoption and filed a petition to terminate mother’s parental rights.

Following a hearing, the court found the following. Mother did not make progress in addressing the case-plan goals. She did not consistently engage in mental-health counseling and there were continued concerns regarding the risks posed by those with whom mother associated. Mother was unwilling to work with DCF or providers to understand the children’s individual

needs, which were varied. A.P. was in custody for over half of his life and was thriving in his current placement. His foster family maintained his connections to his siblings, resolved the medical concerns that were present at his initial placement, and was willing to adopt him. D.P. was diagnosed with a variety of disorders and although he was initially in a family placement, he required a higher level of care and was transferred to a residential program in November 2021. D.P. was easily dysregulated, had angry outbursts, and challenges in peer relationships. He tended to wander. He returned from visits with mother dysregulated. M.P., the oldest, was physically aggressive and used inappropriate language when first in custody. She was in five different placements and, at the time of the final hearing, was in a stable and positive placement, but it was not a pre-adoptive home. DCF was exploring possible family placements for M.P. Mother attended parent-child contact but did not make progress toward understanding the children's needs. Mother did not accept responsibility for the environment she created that negatively impacted the children. She referred to D.P.'s residential placement negatively and did not acknowledge D.P.'s need to be in that placement. She did not participate in the family treatment available at D.P.'s residential program. Mother did not appreciate the parentification experienced by M.P. Mother also did not progress on other case-plan goals. She did not maintain consistent employment or establish independent housing. Based on all these findings, the court concluded that there was a change of circumstances due to mother's failure to progress.

The court further concluded that termination of mother's parental rights was in the children's best interests. Given mother's lack of progress and the children's need for permanency, the court found there was no likelihood that mother would be able to resume parenting within a reasonable time. Mother did not play a constructive role in the children's lives because although she loved them, she was not able to maintain her own mental wellness to become an appropriate caregiver for them. She demonstrated limited engagement and did not develop an understanding of their needs. The children were doing well in their current placements and required a permanent, stable, secure home. Mother appeals.

When termination is sought after initial disposition, the family division must find by clear and convincing evidence that there has been a change of circumstances and that termination is in the child's best interests. See 33 V.S.A. §§ 5113(b), 5317(c), (d). In assessing the child's best interests, the court must consider the statutory criteria. 33 V.S.A. § 5114. The most important factor is whether the parent will be able to resume parenting duties within a reasonable time. In re J.B., 167 Vt. 637, 639, (1998) (mem.). On appeal, we will uphold the family court's conclusions if supported by the findings and affirm the findings unless clearly erroneous. Id.

On appeal, mother argues that the family division's best-interests analysis was erroneous because the court failed to consider the evidence related to the loving relationships between the children and with mother.

Mother argues that the evidence demonstrated that mother and the children have a strong bond, they struggle without her, and that D.P. and M.P. sought out more contact with mother. She asserts that the court failed to consider the impact on the children of losing this connection to her. The family division has the responsibility of weighing the evidence and determining the credibility of witnesses. In re A.F., 160 Vt. 175, 178 (1993). "Individual findings of fact will stand unless clearly erroneous, and conclusions of law will be upheld if supported by the findings." Id. Here, although mother emphasizes certain facts regarding mother's relationship with her children, she does not identify any court findings that are unsupported by the evidence. We will not reweigh the evidence on appeal.

Mother also argues that the court did not account for the children’s bond with her in assessing three of the best-interests factors: the children’s interaction and interrelationships with parents, siblings, and other significant persons; the children’s adjustments to their home, school, and community; and the parent’s role in the children’s lives. See 33 V.S.A. § 5114(1), (2), (4). The court was not required to make a specific finding regarding the effect that severance of the parent-child bond would have on the children in determining whether termination was in the children’s best interests. Nonetheless, the court did consider mother’s bond with the children throughout its order and when assessing the statutory best-interests factors. The court acknowledged the connection the children had to one another and mother, but also emphasized countervailing considerations, including the length of time the children had been out of mother’s care, their need for stability, and mother’s lack of progress in being able to care for them. See In re M.B., 162 Vt. 229, 238 (1994) (recognizing that “[p]ublic policy . . . does not dictate that the parent-child bond be maintained regardless of the cost to the child”). The court recognized that mother loves her children but explained that she had not taken the opportunity to understand her children’s special needs. The court further found that mother did not engage with providers, was dismissive of advice, and was unwilling to take responsibility for the home environment that negatively impacted the children. The court explained that parenting requires more than affection for the children. The court concluded that mother’s role in the children’s lives was not constructive because although she loves them, she did not demonstrate a desire to address her mental wellness, continued to associate with unsafe persons, and lacked stability or housing. On the most important factor—whether mother would be able to parent within a reasonable time—the court found that mother had not made sufficient progress and would not be able to resume parenting in a reasonable time. The court’s findings amply support its conclusion that termination was in the children’s best interests.

Affirmed.

BY THE COURT:

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Paul L. Reiber, Chief Justice

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Karen R. Carroll, Associate Justice

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Nancy J. Waples, Associate Justice