

**RECORD IMPOUNDED**

**NOT FOR PUBLICATION WITHOUT THE  
APPROVAL OF THE APPELLATE DIVISION**

This opinion shall not "constitute precedent or be binding upon any court."  
Although it is posted on the internet, this opinion is binding only on the  
parties in the case and its use in other cases is limited. R.1:36-3.

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-3983-15T1

NEW JERSEY DIVISION OF  
CHILD PROTECTION AND  
PERMANENCY,

Plaintiff-Respondent,

v.

L.C.,

Defendant-Appellant,

and

L.W.,

Defendant.

---

IN THE MATTER OF THE GUARDIANSHIP  
OF A.W., a Minor.

---

Submitted March 9, 2017 – Decided April 19, 2017

Before Judges Hoffman, O'Connor, and  
Whipple.

On appeal from Superior Court of New Jersey,  
Chancery Division, Family Part, Union  
County, Docket No. FG-20-12-16.

Joseph E. Krakora, Public Defender, attorney for appellant (Kylie A. Cohen, Assistant Deputy Public Defender, on the brief).

Christopher S. Porrino, Attorney General, attorney for respondent (Andrea M. Silkowitz, Assistant Attorney General, of counsel; Ellen L. Buckwalter, Deputy Attorney General, on the brief).

Joseph E. Krakora, Public Defender, Law Guardian, attorney for minor (David Valentin, Assistant Deputy Public Defender, on the brief).

PER CURIAM

Defendant L.C. (mother) appeals from the May 4, 2016 Family Part judgment terminating her parental rights to her daughter, A.W. (Alice), presently three and one-half years of age.<sup>1</sup> Before the guardianship trial, defendant L.W. (father), Alice's biological father, executed an identified surrender of his parental rights to his parents and did not participate in this appeal.

The mother contends the New Jersey Division of Child Protection and Permanency (the Division) failed to present clear and convincing evidence to sustain the judgment terminating her parental rights. We disagree and affirm.

---

<sup>1</sup> We use the pseudonym "Alice" to protect the child's privacy.

We summarize the salient evidence. In March 2014, the mother delivered then six-month-old Alice to the police station, reporting she was giving up the child because she was too overwhelmed to care for her. Later in the day, the mother regretted her decision and returned to the police station to get the baby, but by then the Division was involved and executed an emergent removal of Alice and placed her in a resource home. In April 2014, Alice was placed in her paternal grandparents' physical custody, with whom she has lived since. The paternal grandparents want to adopt Alice. The baby's maternal grandmother was also considered as a resource home, but she did not have adequate space in her home. The maternal grandmother subsequently moved to North Carolina.

The court ordered the mother to submit to various evaluations and engage in a number of services. In 2014, the mother submitted to psychological and psychiatric evaluations, which revealed she is afflicted with serious mental health problems. The psychological evaluation showed the mother had clinically significant maladaptive personality traits, and her overall ability to parent was compromised. The psychiatric evaluation revealed the mother had a history of hallucinations and exhibited symptoms of paranoia.

The mother was ordered to participate in individual therapy and comply with all treatment recommendations, which included taking anti-psychotic medication. The mother attended only ten of the forty therapy sessions scheduled. She briefly took psychotropic medication, but ceased because it made her feel tired. For the balance of the litigation, the mother maintained there was nothing wrong with her and, thus, she did not need medication or psychotherapy. She did complete parenting classes, and she also visited Alice until March 2015, when she moved into the maternal grandmother's home in North Carolina.

In July 2015, the mother returned to New Jersey with her six-week-old twins. The twins' father is Alice's father. In September 2015, the Division removed the twins from the mother's care because she was not taking her medication or participating in therapy and was putting the twins at risk for harm. The twins were placed in their paternal grandparents' home, where they have lived since.

The mother submitted to another psychological and psychiatric evaluation in 2016, as well a bonding evaluation. The paternal grandparents also participated in a bonding evaluation. Carla Cooke, Ed.D., who conducted the psychological evaluation, testified the mother did not have the capacity to parent because of her mental health condition, which has

produced psychotic symptoms and has resulted in a lack of insight and compromised decision-making. Dr. Cooke opined the mother's prognosis for change was poor.

Dr. Cooke, who also conducted the bonding evaluations, testified the evaluation of the mother and Alice revealed no bond existed between them. Dr. Cooke found the mother did not know how to interact with the child, and the child was not responsive to her at all. On the other hand, Alice had a "strong and secure" bond with the paternal grandparents, who were "very attentive to" and "very absorbed in" Alice. Dr. Cooke noted the paternal grandparents have created an environment in which she is thriving. Dr. Cooke opined it would do more harm than good if Alice were removed from her grandparents' care, because of her strong and healthy relationship with them, whom she sees as her psychological parents.

Samiris Sostre, M.D., who conducted both psychiatric evaluations, testified the mother has a psychotic disorder. Her disorder impairs her from interpreting emotional cues another may signal or from recognizing another person's needs, impeding her ability to care for a child. The mother even stated she does not feel any connection to the child. The doctor noted:

[The mother] would be unable to recognize what her daughter's needs are; unable to read through the social [cues], body [cues], and verbal [cues] about her emotional needs and respond to them appropriately. [The mother] hasn't been able to respond appropriately to other people. It would be difficult to respond to a child. [The mother] would be more likely to have outbursts. And then her level of functioning has gone down over time.

Dr. Sostre expressed concern about the mother's prognosis, given the mother's resistance to treatment. The doctor stated:

[W]ith the course of these major psychiatric disorders . . . compliance will always remain an issue. That if you don't think there's a psychiatric disorder, you're [sic] chances of actually addressing it are going to be very, very, very, low; that you have a psychiatric disorder that you can't manage independently, because the disorder itself doesn't permit you to recognize the symptoms or report them to the doctor that's treating you.

The mother did not testify, call any witnesses, or introduce any documentary evidence.

After weighing the evidence, the trial court set forth its findings in a lengthy oral opinion, concluding the Division established all four prongs of N.J.S.A. 30:4C-15.1(a), and ordered termination of the mother's parental rights to Alice.<sup>2</sup>

---

<sup>2</sup> These four prongs are:

II

On appeal, the mother contends the Division's proofs were insufficient to satisfy all four prongs in N.J.S.A. 30:4C-15.1(a). After perusing the evidence and considering the applicable legal principles, we conclude the court's decision to terminate the mother's parental rights is amply supported by the evidence.

When terminating parental rights, the court focuses on the child's best interests. Ibid. The State must satisfy the best-

---

(1) The child's safety, health, or development has been or will continue to be endangered by the parental relationship;

(2) The parent is unwilling or unable to eliminate the harm facing the child or is unable or unwilling to provide a safe and stable home for the child and the delay of permanent placement will add to the harm. Such harm may include evidence that separating the child from his resource family parents would cause serious and enduring emotional or psychological harm to the child;

(3) The division has made reasonable efforts to provide services to help the parent correct the circumstances which led to the child's placement outside the home and the court has considered alternatives to termination of parental rights; and

(4) Termination of parental rights will not do more harm than good.

[N.J.S.A. 30:4C-15.1(a).]

interests-of-the-child test by showing all four prongs in N.J.S.A. 30:4C-15.1(a) by clear and convincing evidence, in order to terminate parental rights. N.J. Div. of Youth & Family Servs. v. F.M., 211 N.J. 420, 447-48 (2012). These four prongs require a fact-sensitive examination of the particularized evidence presented in each case. N.J. Div. of Youth & Family Servs. v. M.M., 189 N.J. 261, 280 (2007).

In reviewing a case in which termination of parental rights has been ordered, we remain mindful of the gravity and importance of our review. See N.J. Div. of Youth & Family Servs. v. I.S., 202 N.J. 145, 151 (2010) ("The process for terminating parental rights is a difficult and intentionally rigorous one that must be satisfied by a heightened burden of proof . . . ."). Parents have a constitutionally protected right to enjoy a relationship with and to raise their children without State interference. N.J. Div. of Youth & Family Servs. v. E.P., 196 N.J. 88, 102 (2008). This right is protected by the United States and New Jersey Constitutions. Ibid.

However, this right is not absolute, as it is limited by the "State's *parens patriae* responsibility to protect children whose vulnerable lives or psychological well-being may have been harmed or may be seriously endangered by a neglectful or abusive parent." F.M., supra, 211 N.J. at 447. The State has a strong



public policy that favors placing children in a permanent, safe, and stable home. See In re Guardianship of K.H.O., 161 N.J. 337, 357 (1999).

Moreover, "the trial court's factual findings should be upheld when supported by adequate, substantial, and credible evidence." N.J. Div. of Youth & Family Servs. v. R.G., 217 N.J. 527, 552 (2014). We defer to the trial court's credibility findings and, in particular, its fact findings because of its expertise in family matters, see N.J. Div. of Youth & Family Servs. v. M.C. III, 201 N.J. 328, 343 (2010), unless the trial court's findings are "so wide of the mark that the judge was clearly mistaken." N.J. Div. of Youth & Family Servs. v. G.L., 191 N.J. 596, 605 (2007).

As stated, we reject defendant's challenge the Division failed to meet each prong of N.J.S.A. 30:4C-15.1(a) by clear and convincing evidence, and address the mother's principal contentions.

The mother's attack on the proofs undergirding the satisfaction of the statute's first two prongs suggests the judgment must be reversed because the mother neither harmed nor posed a risk of harm to the child. See N.J.S.A. 30:4C-15.1(a)(1), (2). The claim lacks merit.

Providing proof a parent has in fact harmed a child is not essential to showing the first prong has been satisfied. See N.J. Div. of Youth & Family Servs. v. A.W., 103 N.J. 591, 605 (1986). When no proven actual harm is shown, the first prong will be satisfied by evidence showing a parent will endanger the child's health, safety or welfare. See In re Guardianship of D.M.H., 161 N.J. 365, 383 (1999). A court does not have to wait until a child is "irreparably impaired by parental inattention or neglect" before it acts. Ibid. (quoting A.W., supra, 103 N.J. at 616 n.14).

Here, there was unrefuted evidence the mother suffers from a major psychiatric disorder that disables her from recognizing or ascertaining the needs of a child. There is no question such disorder will endanger the child's safety, health, or development. The second prong was satisfied because the mother is unwilling to eliminate the harm facing the child. She has spurned taking anti-psychotic medication and engaging in therapy. Proof of the mother's limitations and her resistance to treatment provide the requisite evidence to establish the first and second statutory prongs were met.

The Division offered a number of services to the mother. She completed a parenting course and visited the child when in New Jersey, but she did not consistently participate and

ultimately refused to engage in therapy. She also refused to take psychotropic medication. The mother argues the Division did not help her find housing or employment. Even if this were true, and we do not suggest it is, the fact the mother did not secure stable housing or employment is not what underpins the decision to terminate her parental rights. The fact the mother suffers from a major psychiatric disorder that impairs her ability to care for Alice and her refusal to engage in any treatment is what drives the decision to terminate her parental rights.

The mother also argues that, at the time the trial concluded, an assessment of the maternal grandmother's home as an alternative relative placement was still pending. Thus, she contends the third prong was not satisfied. Here, the Division did explore both the maternal and paternal grandparents' homes after the child's removal in its endeavor to place Alice with a relative. The maternal grandmother's home was ruled out, but the paternal grandparents' home was found to be acceptable. After the maternal grandmother moved to North Carolina, the Division did seek an evaluation of her home, but as the Division's caseworker testified, this assessment was ordered as a "back-up" to the paternal grandparents' home.

By the time of trial in 2016, Alice had been living with her paternal grandparents for over three and one-half years, and during that time she developed a strong and secure bond to them. There was testimony her removal from their home would cause her harm. Further, Alice's siblings now live with the paternal grandparents. The "value of nurturing and sustaining sibling relationships" cannot be underestimated. N.J. Div. of Youth and Family Servs. v. S.S., 187 N.J. 556, 561 (2006).

The Division appropriately considered and placed Alice with relatives, see N.J. Div. of Youth & Family Servs. v. K.L.W., 419 N.J. Super. 568, 579 (App. Div. 2011) (citing N.J.S.A. 30:4C-15.3(a)), who now wish to adopt her and provide her permanency. See N.J.S.A. 30:4C-11.3 (stating that "the child's need for permanency shall be of paramount concern to the court"). The fact the assessment of the maternal grandmother's home had not been completed by the time of trial is irrelevant. Even if the maternal grandmother's home had been approved, there was no evidence to support Alice would have or should have been removed from the paternal grandparents' and transferred to the maternal grandmother's home.


There is unrefuted evidence the fourth prong was met; termination of the mother's parental rights will not do more harm than good. Finally, to the extent we have not addressed

any of the mother's remaining arguments, it is because we found they lacked sufficient merit to warrant discussion in a written opinion. See R. 2:11-3(e)(1)(E).

In summary, because there was substantial credible evidence the best interests of the child justified termination of the mother's parental rights, we find no basis to interfere with the trial court's conclusion to enter the judgment of guardianship.

Affirmed.

I hereby certify that the foregoing  
is a true copy of the original on  
file in my office.

  
CLERK OF THE APPELLATE DIVISION