

**RECORD IMPOUNDED**

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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-2449-16T3

NEW JERSEY DIVISION OF CHILD  
PROTECTION AND PERMANENCY,

Plaintiff-Respondent,

v.

A.M.,

Defendant-Appellant,

and

N.J. and N.H.,

Defendants.

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IN THE MATTER OF THE GUARDIANSHIP  
OF K.J. and Ny.H.,

Minors.

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Submitted December 6, 2017 – Decided January 2, 2018

Before Judges Fuentes, Koblitz and Manahan.

On appeal from Superior Court of New Jersey,  
Chancery Division, Family Part, Burlington  
County, Docket No. FG-03-0020-16.

Joseph E. Krakora, Public Defender, attorney for appellant (Catherine Reid, Designated Counsel, on the brief).

Christopher S. Porrino, Attorney General, attorney for respondent (Melissa H. Raksa, Assistant Attorney General, of counsel; Kosha Gala, Deputy Attorney General, on the brief).

Joseph E. Krakora, Public Defender, Law Guardian, attorney for minors (Rachel E. Seidman, Assistant Deputy Public Defender, on the brief).

PER CURIAM

Defendant A.M. appeals from a Family Part order dated January 26, 2017, terminating her parental rights to her two minor children, Kurt and Nan.<sup>1</sup> The same Judgment of Guardianship also terminated the parental rights of N.J. and N.H., the fathers of Kurt and Nan, respectively. They have not appealed.

In a comprehensive oral decision, Judge Mark Tarantino found the Division of Child Protection and Permanency (Division) had proven all four prongs of the best interests test, N.J.S.A. 30:4C-15.1(a), which, in the best interest of the children, mandates termination of parental rights. In re Guardianship of K.H.O., 161 N.J. 337 (1999). We affirm.

The evidence is set forth in the judge's oral opinion. A summary will suffice here. On June 10, 2014, the Division received

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<sup>1</sup> We use pseudonyms to protect the identity of the minors.

a referral that A.M. was abusing oxycodone and other drugs, and was physically abusing her son, Kurt. The Division previously investigated two reports of similar allegations, which proved to be unfounded.

During the Division's investigation of the June 10 referral, A.M.'s doctor disclosed that morphine was detected in her system, which had not been prescribed. This discovery prompted the Division to conduct an emergency removal of Kurt who was then placed in a foster home.

Five months later, A.M. gave birth to Nan. The child had methadone in her system at birth and had to be treated for withdrawal for a month. Due to hospital staff concerns regarding A.M.'s "unreasonable and erratic" behavior, upon Nan's discharge from the hospital, the Division conducted an emergency removal and placed Nan in the same foster home as Kurt.

Defendant has suffered from a long-standing history of substance abuse. Defendant also reported she experienced psychological and emotional issues. Despite the Division's provision of essential services to defendant, she did not complete substance abuse treatment, and relapsed many times using oxycodone and other drugs.<sup>2</sup> Despite her repeated denials of substance abuse,

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<sup>2</sup> These included but were not limited to Percocet, marijuana and MDMA (ecstasy).

she was observed on many occasions to be acting erratically as if under the influence. Defendant never completed a substance abuse program, nor complied with court orders to undergo urine drug screens and hair follicle testing. Further, she engaged in a pattern of willful lack of contact with her children and failed to attend several bonding and psychological evaluation appointments. When defendant did appear for the psychological evaluation, she left prior to completion because she did not want to stay for the evaluation's required duration.

A guardianship trial began before Judge Tarantino on June 13, 2016. On that date, the judge bifurcated the trial and the matter was heard as to A.M. exclusively. The fathers, both incarcerated, were brought to court, yet had not applied for counsel. A.M. did not appear. Regardless of A.M.'s absence, the trial continued since trial date notification was provided to defendant and Division witnesses were ready to testify.

The Division presented testimony from Rasheedah Brown, a Division caseworker, who testified that the children appeared "very bonded" to their resource parents, whom they call "mommy" and "daddy," and that they were thriving in their resource home. Brown further testified that although the Division assessed relatives as possible placement alternatives for the children, the

resource parents best met all the children's needs and those parents expressed a desire to adopt both children.

The Division also presented expert testimony from Dr. Alan Lee, who opined that the children have a secure bond with the resource parents and would suffer severe and enduring harm if separated from them. Dr. Lee further opined that despite being unable to complete a bonding evaluation of A.M. with the children, he was able to conclude that there was a low risk that either child would suffer any significant harm from severing their relationship with A.M., given the short duration of time she was their caretaker.

The trial continued on June 21, June 27, July 5, and July 8, 2016. On June 21, A.M.'s counsel informed the judge that A.M. wished to testify. Since A.M. was unable to be located after a recess, the trial was adjourned.

On June 27, 2016, A.M. testified and continued her testimony on the ensuing July 5 date. During her testimony, A.M. admitted that she used opiates and marijuana on a regular basis and had never completed a substance abuse program. She also acknowledged that due to her lack of care, Kurt suffered from oral hygiene issues including "bottle rot" and dental decay.

On July 8, 2016, after assessing the testimony and evidence presented by the Division and A.M., the judge issued a

comprehensive oral decision. After finding the Division's witnesses to be credible and A.M. to be not credible, the judge held that the Division had proven all four prongs of the best interests test, N.J.S.A. 30:4C-15.1(a), and that termination of defendant's parental rights was in the children's best interest.

On January 9 and 10, 2017, the Division presented testimony regarding the termination of the parental rights of the fathers, N.J. and N.H. At the conclusion of the hearing, a Judgment of Guardianship was entered terminating the parental rights of A.M., N.J., and N.H. The order granted the Division guardianship of Kurt and Nan.


On appeal, our review of the judge's decision is limited. We defer to his expertise as a Family Part judge, Cesare v. Cesare, 154 N.J. 394, 412 (1998), and we are bound by his factual findings so long as they are supported by sufficient credible evidence. N.J. Div. of Youth & Family Servs. v. M.M., 189 N.J. 261, 279 (2007) (citing In re Guardianship of J.T., 269 N.J. Super. 172, 188 (App. Div. 1993)). We conclude the factual findings by the judge are fully supported by the record and the legal conclusions drawn therefrom are unassailable.

Finally, defendant contends that the trial court erred in denying a January 4, 2017 motion involving additional evidence to support her participation in treatment. Defendant further

contends that the manner in which the proceeding was conducted violated her due process rights and prejudiced her ability for reunification with her children. Having considered these arguments in light of the record, we conclude they are without sufficient merit to warrant discussion in a written opinion. R.  
2:11-3(e)(1)(E).

Affirmed.

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

  
CLERK OF THE APPELLATE DIVISION