

RECORD IMPOUNDED

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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-3551-16T4

NEW JERSEY DIVISION OF
CHILD PROTECTION AND
PERMANENCY,

Plaintiff-Respondent,

v.

J.M.A.,

Defendant-Appellant,

and

S.P.,

Defendant.

IN THE MATTER OF THE
GUARDIANSHIP OF N.W.P.,

Minor.

Submitted February 12, 2018 – Decided April 2, 2018

Before Judges Whipple and Rose.

On appeal from Superior Court of New Jersey,
Chancery Division, Family Part, Essex County,
Docket No. FG-07-0246-16.

Joseph E. Krakora, Public Defender, attorney for appellant (Eric R. Foley, Designated Counsel, on the briefs).

Gurbir S. Grewal, Attorney General, attorney for respondent (Jason W. Rockwell, Assistant Attorney General, of counsel; Amanda L. Helms, Deputy Attorney General, on the brief).

Joseph E. Krakora, Public Defender, Law Guardian, attorney for minor (Danielle Ruiz, Designated Counsel, on the brief).

PER CURIAM

Defendant J.M.A. (mother) appeals from a February 2, 2017 Family Part judgment terminating her parental rights to N.W.P. We affirm substantially for the reasons set forth in Judge James R. Paganelli's cogent decision issued with the order.

The evidence is set forth in detail in the judge's opinion, and only a summary is required here. Mother suffers from substance abuse and mental health issues and has an extensive history with the Division of Child Protection and Permanency (the Division). In 2012, the Division first became involved with mother after it was notified that she tested positive for various drugs when she gave birth to her first child, D.C. The Division ultimately substantiated allegations of abuse, and mother surrendered her parental rights to D.C.

In late February 2015, mother again came to the attention of the Division when both she and the newly born N.W.P. tested

positive for marijuana. On February 23, 2015, the Division filed for care, custody, and supervision of N.W.P., which was granted. N.W.P. was placed in a resource home that he remained at throughout trial.

The Division filed a complaint for guardianship of N.W.P on June 21, 2016. The guardianship trial spanned three days in January 2017. At trial, the Division presented two witnesses: Dr. Eric Kirschner and caseworker Franchesca Fernandez. Mother did not present any witnesses or testify.

Dr. Kirschner testified that mother "lacked the psychological and physical resources to adequately meet [N.W.P.'s] developmental needs for safety, protection, nurturance, stability, and guidance." He further noted, among other things, mother's history of non-compliance with services offered, lack of gainful employment, significant substance abuse issues, and housing instability.

On February 2, 2017, the trial court terminated mother's and S.P.'s¹ parental rights to N.W.P., finding the Division satisfied each prong of the best interests test, N.J.S.A. 30:4C-15.1.

Judge Paganelli's oral opinion thoughtfully analyzed each prong and gave careful attention to the importance of permanency

¹ S.P. is the father and not a party to this appeal.

and stability for the child. Pertinent to this appeal, the judge found by clear and convincing evidence that the Division provided reasonable efforts to reunify mother and N.W.P. In particular, the Division offered mother transportation services, bus passes, family team meetings, a paternity test, psychiatric evaluation, visitation, substance abuse evaluation, psychological and bonding evaluation, parenting classes, individual therapy counseling, parenting groups, a housing letter, and referrals to inpatient and outpatient substance abuse treatment. The court noted that mother "completely failed to comply with any of these services or recommendations" except for belatedly completing a parenting class.

The judge also found the Division demonstrated termination of mother's parental rights will not do N.W.P. more harm than good. Dr. Kirschner, the only expert called at trial, performed two bonding evaluations: first between mother and N.W.P., and second between the resource parent, who seeks to adopt N.W.P., and N.W.P. Dr. Kirschner testified N.W.P. would not be harmed if mother's parental rights were terminated because there lacked a bond. In contrast, Dr. Kirschner found N.W.P. formed a bond with the prospective adopting parent, but noted N.W.P. could be transitioned to a new caregiver without suffering enduring harm because N.W.P. was less than two years old and could not fully

comprehend attachment. The judge concluded N.W.P. would not suffer more harm than good because nothing indicated that mother would be able to provide for the child.

Ultimately, the court found the Division had proven all four prongs of the best interests test, N.J.S.A. 30:40C-15.1(a), which mandates termination of parental rights. In re Guardianship of K.H.O., 161 N.J. 337, 347-48 (1999). 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)).

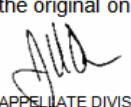
On appeal, mother argues the Division failed to provide her with tailored services to specifically address her needs and did not arrange for a psychiatric evaluation. However, the record demonstrates mother resisted participation in the services offered, including inpatient treatment. She was referred for inpatient treatment but did not complete the admission process. The record also demonstrates on at least one occasion she told the Division she completed a psychiatric evaluation. She further contends the trial court erred in finding that termination of her parental rights will not do more harm than good. The record

provides little support for the conclusion the child had a bond with mother or that mother had the capacity to provide for the child's needs.

After reviewing the record, we conclude the judge's factual findings are entirely supported by the record and the legal conclusions drawn therefrom are indisputable. See N.J. Div. of Youth and Fam. Servs. v. F.M., 211 N.J. 420, 448-49 (2012). We therefore affirm substantially for the reasons the judge expressed in his comprehensive well-reasoned opinion.

Affirmed.

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


CLERK OF THE APPELLATE DIVISION