

RECORD IMPOUNDED

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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-5529-16T3

NEW JERSEY DIVISION OF CHILD
PROTECTION AND PERMANENCY,

Plaintiff-Respondent,

v.

J.O.,

Defendant-Appellant,

and

R.F.,

Defendant.

IN THE MATTER OF THE GUARDIANSHIP
OF M.A.G., a minor.

Submitted May 8, 2018 – Decided May 23, 2018

Before Judges Gilson and Mitterhoff.

On appeal from Superior Court of New Jersey,
Chancery Division, Family Part, Middlesex
County, Docket No. FG-12-0066-17.

Joseph E. Krakora, Public Defender, attorney for appellant (Christine B. Mowry, Designated Counsel, on the brief).

Gurbir S. Grewal, Attorney General, attorney for respondent (Melissa H. Raksa, Assistant Attorney General, of counsel; Janice Venables, Deputy Attorney General, on the brief).

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

PER CURIAM

The mother of a child appeals from an August 1, 2017 judgment terminating her parental rights and granting guardianship of the child to the Division of Child Protection and Permanency (Division) with the plan that the child be adopted. The father gave an identified surrender of his parental rights in 2017. The child's law guardian and the Division urge that we affirm the judgment and allow the adoption to proceed. Having reviewed the record in light of the applicable law, we affirm for the reasons explained by Judge Michael J. Nelson in his comprehensive opinion read into the record on August 1, 2017.

The facts and evidence are detailed in Judge Nelson's opinion, which he rendered after a three-day trial. Accordingly, we need only summarize some of the relevant facts.

The Division became involved with the family the day after the child's birth in February 2015. In that regard, the Division

received a referral from the hospital that the mother tested positive for marijuana and admitted to smoking marijuana during her pregnancy. Shortly thereafter, the Division also received a referral that the mother had threatened to kill the child.

Concerned about the potential harm to the child posed by the mother's mental health issues and marijuana use, a safety protection plan was entered in March 2015, requiring all of the mother's contact with the child to be supervised. The court also ordered her to comply with recommendations of substance abuse evaluations, counseling, medication monitoring, and parenting skills training. The mother, however, violated the plan and court order by having unsupervised contact with the child, failing to cooperate with services, and failing to take her medication.

As part of its involvement with the family, the Division visited the mother's home in April 2015. Initially, the mother did not allow the Division workers to enter. Once the workers were let into the home, they observed that the mother was with the child unsupervised. Throughout the visit, the mother was largely uncooperative and became violent. Specifically, the mother was yelling and throwing things, and broke one of the child's toys. Ultimately, the Division contacted the police and conducted an emergent removal of the child.

Both before and after the removal of the child, the Division provided the mother with various services, including MICA treatment, in-home assistance, medication monitoring, parenting skills training, and individual counseling. The mother failed to complete most of the recommended services, and she continued to use marijuana. The Division also enrolled her in a Mommy and Me program. The mother's behavior at the program was volatile and hostile, and she was discharged from the program for noncompliance.

The Division arranged for a psychological evaluation of the mother. The evaluation disclosed that the mother suffered from cannabis disorder, bipolar disorder, impulse control disorder, and post-traumatic stress disorder. The assessment also revealed that she had a significant history of antisocial personality behaviors, including aggressiveness and impulsivity. The psychologist opined that the mother could not independently care for the child.

A three-day guardianship trial was conducted in July 2017. The Division presented testimony from two workers and an expert in psychology and child bonding. The Division also submitted numerous documents into evidence. The mother testified and called two witnesses to testify concerning her behavior as a mother.

Based on the testimony and evidence, Judge Nelson made detailed findings. In making those findings, he relied on the

testimony by the Division workers and the Division's expert, all of whom he found to be credible.

Judge Nelson then addressed the four prongs of the best interests of the child test. N.J.S.A. 30:4C-15.1(a). Under prong one, he found that the mother's continued marijuana use, unsupervised contact with the child, and refusal to take medication for her mental health issues presented a risk of harm to the child's safety, health, and development.

Turning to the second prong, Judge Nelson found that the mother was unable or unwilling to eliminate the harm facing the child. In that regard, he noted that she: refused to accept treatment for her substance abuse; failed to consistently take medication for her mental health issues; failed to complete an inpatient program; failed to participate in MICA treatment; and did not comply with court orders. He also noted that the mother violated the safety protection plan on multiple occasions by having unsupervised contact with the child.

Under prong three, Judge Nelson found that the Division made reasonable efforts to reunify the mother with the child and provided ample services to the mother. He also found that the Division had extensively explored, but properly ruled out, placement of the child with other family members.

Finally, relying on the uncontroverted testimony of the Division's expert, Judge Nelson concluded that termination of parental rights would not do more harm than good. He found that the bonding evaluation between the child and the resource parents revealed that the child viewed his resource parents as his psychological parents and that he had integrated into the family. Judge Nelson noted there was a parental bond between the mother and the child, but found that the child would be able to overcome separation from the mother due to his age. Significantly, Judge Nelson found that termination of parental rights would provide the child with needed stability.


On appeal, the mother argues that the trial court erred in finding that the Division presented clear and convincing evidence of the four prongs under the best interests of the child test. In essence, the mother disputes the factual findings and legal conclusions made by the trial court. We disagree and affirm substantially for the reasons explained by Judge Nelson in his thorough opinion read into the record.

Judge Nelson correctly summarized the law on the four prongs of the best interests test. N.J.S.A. 30:4C-15.1(a). Judge Nelson then found that there was clear and convincing evidence establishing each of those prongs. In particular, Judge Nelson found that the child was entitled to stability and permanency to

foster the child's development. All of those findings are amply supported by substantial, credible evidence in the record. Judge Nelson's opinion also effectively addresses each of the arguments raised by the mother on this appeal because she does not raise anything that Judge Nelson did not consider and evaluate.

Affirmed.

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


CLERK OF THE APPELLATE DIVISION