

RECORD IMPOUNDED

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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1796-21

NEW JERSEY DIVISION
OF CHILD PROTECTION
AND PERMANENCY,

Plaintiff-Respondent,

v.

A.V.-C.,

Defendant-Appellant.

IN THE MATTER OF THE
GUARDIANSHIP OF L.S.V.C.,
a minor.

Argued March 20, 2023 — Decided April 4, 2023

Before Judges Mawla, Smith, and Marczyk.

On appeal from the Superior Court of New Jersey,
Chancery Division, Family Part, Cumberland County,
Docket No. FG-06-0011-22.

Beatrix W. Shear, Designated Counsel, argued the
cause for appellant (Joseph E. Krakora, Public
Defender, attorney; Beatrix W. Shear, on the briefs).

Nicholas J. Dolinsky, Deputy Attorney General, argued the cause for respondent (Matthew J. Platkin, Attorney General, attorney; Sookie Bae-Park, Assistant Attorney General, of counsel; John J. Lafferty, IV, Deputy Attorney General, on the brief).

Neha Gogate, Assistant Deputy Public Defender, argued the cause for minor (Joseph E. Krakora, Public Defender, Law Guardian, attorney; Meredith Alexis Pollock, Deputy Public Defender, of counsel; Neha Gogate, of counsel and on the brief).

PER CURIAM

Defendant A.V.-C. appeals from a January 28, 2022 amended judgment of guardianship entered in favor of the Division of Child Protection and Permanency (Division), terminating parental rights to his son L.S.V.C. (Landon).¹ We affirm.

Defendant has been incarcerated in a Puerto Rican prison for virtually Landon's entire life. In October 2015, he committed the offenses of robbery, possession of a weapon, and aggravated assault four days prior to the child's birth. A warrant was issued for defendant's arrest in October 2015, and he remained a fugitive until he surrendered in December 2015.

¹ We use initials and pseudonyms pursuant to Rule 1:38-3(d)(12).

S.C.D. (Sabrina) is Landon's mother. She later gave birth to Landon's half-siblings, S.C.D. (Samantha) and D.C.D. (Dylan). Shortly after Landon's birth, he was diagnosed with congenital hydronephrosis, a urinary tract obstruction appertaining to the dilation of his right kidney.² Landon also has autism. His vocabulary is limited, and he signs to express himself. He has special education needs and an individualized education plan (IEP). He sees several doctors.

Before these medical services were put into place, Landon was in Sabrina's care. She was a victim of domestic violence, suffered during her relationship with Samantha and Dylan's father. Sabrina also had mental health disorders and abused drugs. In January 2016, she executed an affidavit granting defendant temporary custody of Landon until she established a residence in Buffalo, New York. The affidavit memorialized defendant and the paternal grandmother would care for Landon "and they will have custody and be authorized to consent to any issues related to the child . . . until [Sabrina was] able to get to where the child is."

On May 8, 2016, Sabrina visited the paternal grandparents' home to take Landon clothes shopping. Landon's paternal grandfather was watching him at

² Hydronephrosis, Steadman's Med. Dictionary (Nov. 2014).

the time, and Sabrina told him she would return the child after several days. However, when the paternal grandparents did not hear from Sabrina after three days, they contacted police. Approximately two weeks later, Sabrina called the paternal grandfather and disclosed her location.

Meanwhile, defendant pled guilty to the charges, and on August 15, 2016, was sentenced to an aggregate term of thirteen-and-one-half years in prison. His parole eligibility date was August 18, 2022. His maximum prison term is December 6, 2025.

In November 2016, Sabrina told the paternal grandfather she was living with the child in a battered women's shelter. The paternal grandparents visited Sabrina at the shelter. Sabrina was pregnant with Samantha at the time. Although Sabrina agreed to let the grandparents take Landon back to their home, the shelter refused.

On February 14, 2017, Sabrina left Puerto Rico and several days later moved in with her mother in New Jersey. Samantha was born in June 2017. In September 2017, the maternal grandmother contacted police because Sabrina left Landon and Samantha at home unattended. As a result, the Division received its first referral in the case and investigated Sabrina for medical neglect and abandoning the children. The Division also inquired with

Sabrina about defendant. She stated she had no contact information and that he was incarcerated in Puerto Rico. She provided an incorrect spelling of defendant's last name.

In October 2017, Sabrina took the children and left her mother's home, prompting the Division to search for her and in December, listing her as missing. In January 2018, Sabrina resurfaced when she attempted suicide by laying in traffic and yelling at vehicles to hit her. Both children witnessed the incident. Sabrina was hospitalized, and on January 28, 2018, the court granted the Division's request to remove the children and place them with the maternal grandmother. Landon and Samantha have been with the maternal grandmother since the removal.

In February 2019, the Division obtained Landon's birth certificate bearing the correct spelling of defendant's name, which was used to continue searching for him. The Division located defendant and contacted his parents in Puerto Rico in December 2019. Hurricane Maria devastated Puerto Rico one month later, followed by earthquakes, which impacted basic services on the island. Additionally, the COVID-19 pandemic and its associated lockdowns hampered access to defendant.

The Division offered Sabrina services for two years, which were unsuccessful in achieving reunification. On January 9, 2020, she executed an identified surrender of her parental rights of both children to her mother.³ The Division served defendant with a guardianship complaint on January 17, 2020. It facilitated video visitation between defendant and Landon. Because of Puerto Rico's natural disasters, defendant's parents relocated to New Jersey and were residing with relatives. The Division arranged in-person biweekly visits for them with Landon.

In addition to visitation, the Division sent its expert to Puerto Rico to conduct a psychological evaluation. The expert interviewed defendant, administered psychological testing, and reviewed collateral information. The expert learned of defendant's history of substance abuse as well as his juvenile and criminal history and concluded "[h]e remains a heightened risk for criminal recidivism." Because defendant never had substance abuse counseling and treatment, the expert concluded he "likely remains a heightened risk for . . . relapse." He found defendant required a substance abuse evaluation, "frequent random drug testing," abstinence from drug abuse,

³ In March 2020, Sabrina had Dylan, who was also placed with the maternal grandmother.

compliance with treatment recommendations and aftercare, "ongoing individual counseling and psychotherapy . . . [, and] parenting education and anger management programs."

"[E]ven if [defendant] undertook the typical treatments and services for his deficits and issues, the[y] are unlikely to result in . . . more permanent or lasting changes." The expert found defendant had "difficulties in his interpersonal functioning [and was] . . . rather self-centered and self-absorbed" Defendant "lack[ed] empathy and regards for others. [His] . . . strong mistrust and suspicion of others, likely interfere[d] with developing close meaningful relationships[, and h]e is prone to inconsistency and instability in different areas of his life."

The expert questioned defendant regarding his knowledge of Landon. He concluded defendant has some knowledge of the child's medical and developmental issues and limited parenting skills, including an understanding of "the importance and relevance of scheduling, routines, discipline, [and] punishment." However, the expert found defendant could not independently care for Landon and his prognosis for change was "poor." Regardless of whether defendant was incarcerated, his deficits "are all issues that directly

compromise or jeopardize him being able to provide a minimally adequate level of care to . . . [Landon]."

The expert opined autistic children like Landon require stability, consistency, predictability, and permanency to thrive. Landon would be at risk if he were in defendant's care, and delaying permanency for the child to see whether defendant was released and complied with treatment was also a harm. The expert performed a bonding evaluation, which showed Landon's best interests lay with the maternal grandmother because he "formed a significant and positive psychological attachment and bond" to her. Landon had "a significant risk of suffering severe and enduring harm if his relationship with the [maternal grandmother] . . . ended." Severing the relationship would adversely affect his impulse controls, emotional functioning and moods, self-esteem or self-image, interpersonal functioning in his relationships with others, and his academic functioning. Conversely, the expert found "it would be extremely unlikely" Landon formed a "significant and positive bond" with defendant, so adoption was "the most supported permanency plan"

The maternal grandmother testified in detail regarding Landon's treatment and her care for him. She took specialized training and consulted with specialists regarding his medical and educational needs. The Division

licensed the maternal grandmother's home. She described Landon's relationship with her boyfriend as father-and-son, and the relationship between Landon and Samantha as very good.

The maternal grandmother testified the Division discussed kinship legal guardianship (KLG) and adoption with her at length. She testified she understood KLG was a permanency option, but that she told the Division she wished to adopt so Landon could inherit from her, receive financial benefits and health insurance until twenty-two years of age. Notwithstanding the differences between KLG and adoption, she always wanted to adopt. She had already adopted Samantha and described the siblings as "inseparable." She explained Landon sees a nephrologist, a urologist, and receives occupational and speech therapy in school and privately. Her commitment to Landon is "[i]ndefinite."

During cross-examination, the maternal grandmother stated she became aware the Division had the incorrect spelling of defendant's surname when she received Landon's medical insurance card. She testified she did not wait to tell the Division, and "[t]hey fixed it quickly."

The adoption caseworker testified concerning the background of the Division's involvement with the family, its constant efforts to locate defendant,

the services provided to both parents, and the placement process. He also explained defendant's plan was to have his parents care for Landon. However, the Division ruled out the paternal grandparents because the paternal grandfather had a criminal history and was previously incarcerated in Puerto Rico "for several years . . . [for] very serious charges[,]" the grandparents lacked housing of their own in New Jersey, and Landon's needs were being met by the maternal grandmother.

The paternal grandmother explained she and the grandfather came to New Jersey in May 2021 for purposes of getting custody of Landon. However, she conceded she never sought a court order for Landon's return either in Puerto Rico or New Jersey, and that he was receiving "good care" in the maternal grandmother's custody. She testified she and the grandfather intended to remain with her sister-in-law who was hosting them and did not intend to return to Puerto Rico. She explained the grandfather had been incarcerated for ten years on a weapons offense and was released in 2015.

Defendant testified the court should order KLG. Although he never had intentions of living in New Jersey prior to his incarceration, defendant stated his plan was to be paroled in August 2022, relocate to New Jersey, and work with his father. He was satisfied with the care given Landon by the maternal

grandmother and that she was meeting all his needs. He conceded Landon has a relationship with Samantha. Defendant also said during his visits with Landon, the child did not recognize defendant or communicate with him. He was unable to specifically describe Landon's treatment and medication regimen.

The trial judge issued a lengthy oral opinion. She found all three of the Division's witnesses credible, and to an extent, the paternal grandmother as well.

The judge found the Division met the first prong of the best interests test under N.J.S.A. 30:4C-15.1(a). She rejected defendant's argument that he had not harmed Landon and noted "the absence . . . of physical abuse or neglect [by defendant or Sabrina] is not the question." Rather, defendant's commission of a crime four days before Landon's birth harmed the child because it was foreseeable it would absent him from the child's life. Based on defendant's earliest release date, he would have been absent from the child's life for nearly seven years. The judge also found Sabrina was unable to care for Landon and meet any of his needs, which also harmed him.

The trial judge found the Division proved the second best interests prong because defendant's ongoing incarceration made him unable to care for the child, or provide him with a safe and stable home. She noted defendant's

plan to be released, probably with parole, in the [F]all of 2022 and eventually be independent enough to have a job that eventually leads to an apartment, is both speculative in terms of double approvals; one to be paroled at least in the [F]all of 2022

And the second for permission for parole to happen in New Jersey, and even then . . . the period of time that he'll need to be independent, which the [c]ourt will apply the recommendations of [the Division's expert finding it] . . . would clearly take a significant period of time.

And [defendant] admits to that, the un-definiteness, with the lack of specificity in when he'll actually be able to parent the child on his own, without his parents' help.

The judge found the Division met the third best interests prong because it made reasonable efforts to find defendant. She rejected defendant's assertion Sabrina intentionally gave the Division the incorrect spelling and withheld defendant's date of birth to sabotage its ability to contact him and provide reunification services. The judge found Sabrina did not act intentionally because she consistently misspelled Landon's surname as well, such as on the identified surrender documents. It was reasonable for her not to know

defendant's date of birth because the parties were only in a relationship for six months. Further, there was no evidence anyone confronted Sabrina about allegedly intentionally misspelling defendant's name. The judge concluded the Division could not be faulted when it searched for defendant with limited information.

The trial judge found that once the Division located defendant, it had difficulty providing services due to his incarceration. Notwithstanding these issues, the judge found the services offered defendant and Sabrina were reasonable. Moreover, the Division considered alternatives to the termination of parental rights. The maternal grandmother did not want KLG, and defendant's testimony he wanted KLG was not credible because defendant was "not really asking for [KLG, but rather] . . . asking for long-term foster care" The judge found the paternal grandmother's testimony in support of KLG did not match her and the grandfather's conduct. They only had custody of Landon for three months and "did not pursue legal action to have the child returned to them for the ten months that they could have jurisdiction much more easily."

The judge found the Division proved the fourth best interests prong because the expert testimony showed KLG was not an option. The evidence

demonstrated defendant "is not going to be able to parent this child in the foreseeable future." The judge credited the expert's finding Landon "has a bond of the most fundamental nature, a significant and positive psychological bond and attachment with his current caretaker." The expert's testimony proved "the child would be at risk of suffering severe and enduring psychological and emotional harm if the attachment was broken." Even if defendant were paroled and complied with all services, Landon would have been in placement for "two-thirds of his life or more." The judge concluded she could not "find that the Division has done anything but establish that termination of [defendant's] parental rights will not do more harm than good."

Defendant argues the following points on appeal:

[POINT] I

The trial court's finding . . . [Landon] was in the care of his paternal family for only four months is not supported by adequate competent evidence.

[POINT] II

[The Division] did not have the statutory prerequisites required to bring an N.J.S.A. 30:4C-15(c) "best interests" FG guardianship/termination of parental rights action for [Landon] against [defendant], because no FN finding entitling [the Division] to custody of [Landon] was ever made against [defendant].

[POINT] III

The guardianship judgment in this case should be reversed, because the trial court failed to recognize that with the passage of L. 2021, c. 154, New Jersey law now encourages [KLG] instead of termination of parental rights and rejects relying on expert opinion about bonding and attachment to resource parents in [Division] guardianship cases.

- A. Initial kinship care placements promote KLG outcomes for children in [Division] custody who cannot be returned to their parents, and L. 2021, c. 154 has made [KLG] a defense to [Division] termination of parental rights.
- B. L. 2021, c. 154 rejects reliance on foster child/resource parent bonding.

[POINT] IV

The trial court erred by holding that [the Division] proved the four prongs of the termination test against [defendant] by clear and convincing evidence.

- A. [The Division] did not prove [p]rong [o]ne.
- B. [The Division] did not prove [p]rong [t]wo.
- C. [The Division] did not prove [p]rong [t]hree.
 - 1. Reasonable efforts.
 - 2. Alternatives to termination.
- D. [The Division] did not prove [p]rong [f]our.

[POINT] V

The guardianship judgment against [defendant] must be reversed because the trial court relied on [the maternal grandmother]'s assurances that she would continue to allow the [paternal grandparents], and through them [defendant], to have visitation and contact with [Landon] and because [the maternal grandmother] concealed the correct spelling of [defendant]'s name and the existence of the [paternal grandparents] and their relationship with [Landon] from [the Division].

I.

Our review of a trial court's decision to terminate parental rights is limited. N.J. Div. of Child Prot. & Permanency v. C.J.R., 452 N.J. Super. 454, 468 (App. Div. 2017). We will not reverse the trial "court's termination decision 'when there is substantial credible evidence in the record to support the court's findings.'" Ibid. (quoting N.J. Div. of Youth & Fam. Servs. v. E.P., 196 N.J. 88, 104 (2008)).

We defer to the trial court's fact-findings and credibility determinations. N.J. Div. of Youth & Fam. Servs. v. R.G., 217 N.J. 527, 552-53 (2014). Deference is accorded to the trial court's findings of fact because "the Family Part 'possess[es] special expertise in the field of domestic relations'" Id. at 553 (first alteration in original) (quoting Cesare v. Cesare, 154 N.J. 394, 412-13 (1998)). Moreover, deference is accorded to the trial court's credibility

determinations because it had "the opportunity to make first-hand credibility judgments about the witnesses who appear on the stand; it has a 'feel of the case' that can never be realized by a review of the cold record." E.P., 196 N.J. at 104 (quoting N.J. Div. of Youth & Fam. Servs. v. M.M., 189 N.J. 261, 293 (2007)). "Only when the trial court's conclusions are so 'clearly mistaken' or 'wide of the mark' should an appellate court intervene and make its own findings to ensure that there is not a denial of justice." Ibid. (quoting N.J. Div. of Youth & Fam. Servs. v. G.L., 191 N.J. 596, 605 (2007)). No deference is given to the trial court's interpretation of the law, which is reviewed de novo. D.W. v. R.W., 212 N.J. 232, 245-46 (2012).

II.

The arguments raised in Points I and V lack merit. The record amply supports the trial judge's finding regarding the length Landon was in his paternal grandparents' custody. There is no evidence the judge granted the guardianship judgment because the maternal grandmother testified she would permit contact between defendant's family and Landon.

Likewise, the record does not support the conclusion the maternal grandmother withheld the correct spelling of defendant's name or the existence of the paternal grandparents. The maternal grandmother's relationship with

defendant and his family was more attenuated than Sabrina's, and the judge made detailed credibility findings about the maternal grandmother's testimony, which we decline to second-guess. Our review of the record does not reveal the maternal grandmother operated with a nefarious purpose.

III.

The argument raised in Point II also lacks merit. When abuse or neglect is not found, a trial court must dismiss a Title Nine action, but Title Thirty provides an alternative means for providing services to children in need. N.J. Div. of Youth & Fam. Servs. v. I.S., 214 N.J. 8, 31 (2013) (citing N.J. Div. of Youth & Fam. Servs. v. N.D., 417 N.J. Super. 96, 109 (App. Div. 2010)). Although "the Division usually pleads Title [Nine] and Title [Thirty] claims concurrently in order to facilitate the efficient processing of assistance to the family, particularly to the child who is the focus of the inquiry[;] . . . Titles [Nine] and [Thirty] operate independently from one another." Id. at 31, 37. Contrary to defendant's argument, a finding of abuse or neglect under Title Nine is not a prerequisite to the Division's ability to institute an action under Title Thirty.

IV.

In guardianship proceedings, the court applies the statutory best interests test, which require it to consider:

- (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;
- (3) The [D]ivision 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).]

The Division must prove the four prongs by "clear and convincing" evidence. N.J. Div. of Youth & Fam. Servs. v. A.W., 103 N.J. 591, 611-12 (1986). The prongs "enumerated in the best interests standard are not discrete and separate; they relate to and overlap with one another to provide a comprehensive standard that identifies a child's best interests." In re K.H.O.,

161 N.J. 337, 348 (1999). These considerations are fact sensitive and require particularized evidence addressing the specific circumstances. Ibid.

The Legislature amended the second prong of N.J.S.A. 30:4C-15.1(a) to eliminate the consideration of whether separating the child from their resource parent harms the child. L. 2021, c. 154 § 1. The Legislature also amended the KLG statute, N.J.S.A. 30:4C-85, to strengthen support for kinship care as a resource for children removed from their parents and emphasize foster care as a temporary measure. L. 2021, c. 154 § 1. It also removed the requirement that the court must find, by clear and convincing evidence, adoption is neither feasible nor likely before appointing a kinship legal guardian, thus making KLG an equally available permanent plan for children in Division custody. L. 2021, c. 154, § 4; N.J.S.A. 3B:12A-6(d)(3).

In New Jersey Division of Child Protection and Permanency v. D.C.A., we considered the amendments and rejected the defendant's argument that they meant "all evidence concerning a child's relationship with [the] resource caregiver[was] barred, even in the context of other prongs of the best-interest standard." 474 N.J. Super. 11, 25-26 (App. Div. 2022). We held "[t]he Legislature did not alter the other components of the best interest standard." Id. at 25. "[T]he text itself[, t]aken as a whole, . . . still requires a finding that

'[t]ermination of parental rights will not do more harm than good.'" Id. at 26 (third alteration in original) (quoting N.J.S.A. 30:4C-15.1(a)(4)). This requires the trial court "to determine whether the child is likely to suffer worse harm in foster or adoptive care than from termination of the biological parental bond." Ibid. (citing M.M., 189 N.J. at 289) (requiring the Division to offer testimony from an "expert who has had full opportunity to make a comprehensive, objective, and informed evaluation of the child's relationship with both the natural parents and the foster parents").

For these reasons, we reject defendant's argument in Point III the amendments codify a preference for KLG over a termination. Defendant's argument the amendments eliminated any consideration of bonding between a child and their resource parent is also unpersuasive.

In Point IV, defendant challenges the judge's findings under the four best interests prongs. He asserts the prong one findings were erroneous because they were predicated on his incarceration and ignored that Landon could live with the paternal grandmother until defendant is paroled in August 2022. He argues the prong two findings require a reversal because the court improperly concluded his plan to be paroled, and to live with his parents and Landon, was speculative. Defendant claims the Division failed its prong three obligations,

namely, to make reasonable efforts to reunite him with Landon and consider alternatives to a termination of his parental rights. He asserts the judge's prong four findings were erroneous because she "relied heavily" on the expert's bonding evaluation.

A parent's incarceration "bear[s] materially and directly on the parent-child relationship," and is thus "unquestionably relevant to the determination of whether the parental relationship should be terminated." In re Adoption of Child. by L.A.S., 134 N.J. 127, 136-37 (1993), superseded by statute, L. 1993, c. 345, § 9, as recognized in In re Adoption of Child. by G.P.B., Jr., 161 N.J. 396 (1999). While "incarceration alone is insufficient to prove parental unfitness or abandonment and terminate parental rights," R.G., 217 N.J. at 555, incarceration is "probative of whether the parent is incapable of properly caring for . . . or has abandoned the child." L.A.S., 134 N.J. at 136. The relevant factors for consideration include the effect of the incarceration on the child, with consideration given to the parent's attempts to communicate and have a relationship with the child during their incarceration, and the level of concern displayed by the parent as to the child's well-being. See id. at 143-44. "A parent's withdrawal of . . . solicitude, nurture, and care for an extended

period of time is in itself a harm that endangers the health and development of the child." In re DMH, 161 N.J. 365, 379 (1999).

The trial judge's prong one findings were not predicated solely on defendant's status as an incarcerated parent. As we recounted, the judge considered defendant's irresponsible conduct in committing the offense that put him in jail just prior to his son's birth. She considered the visitations defendant enjoyed with the child, the amount of time he had with the child before he was incarcerated, and that defendant had yet to be granted parole.⁴ Defendant's ongoing absence from Landon's life is an ongoing harm, and the judge's prong one findings to this effect were sound.

Defendant's arguments under prong two lack sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E). The record supports the judge's finding defendant was unable to provide the child with a safe and stable home, and that his plan upon release was unrealistic and did not meet the child's needs for permanency.

The record supports the judge's prong three findings. Reasonable efforts are defined as "reasonable attempts" at reunification, including the following:

⁴ At oral argument, defense counsel confirmed defendant has yet to be granted parole, despite his testimony he would be paroled in August 2022.

- (1) consultation and cooperation with the parent in developing a plan for appropriate services;
- (2) providing services that have been agreed upon, to the family, in order to further the goal of family reunification;
- (3) informing the parent at appropriate intervals of the child's progress, development, and health; and
- (4) facilitating appropriate visitation.

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

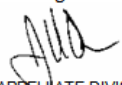
Based on our review of the record, there is no credible claim the Division failed to consult with defendant, keep him apprised of Landon's progress, or provide visitation. The judge found the caseworker enthusiastically described his efforts to assist this family. "[H]is happiness when he made a breakthrough here and there . . . [showed he] was very committed to this family . . . and wanting everybody to be successful . . . in having a relationship with the child." Notwithstanding the caseworker's laudable efforts, the ability to deliver services to defendant in a Puerto Rican prison, let alone any other prison facility, is not the Division's sole prerogative. The record here shows the Division made reasonable efforts within the confines of an out-of-state prison's rules, a duo of natural disasters, and a

pandemic. As we noted earlier in this section, we reject defendant's assertions the judge did not consider alternatives to termination of parental rights.

Finally, the judge did not err in considering the Division's bonding evaluation in her prong four findings. This is typically an appropriate means of determining this prong. N.J. Div. of Child Prot. & Permanency v. N.C.M., 438 N.J. Super. 356, 371 (App. Div. 2014). Although the Division's bonding evaluation was un rebutted, the judge considered evidence beyond the expert's testimony and report. Indeed, the testimony of the other witnesses proved Landon was bonded to his maternal grandmother and that she meets his needs. The evidence showed Landon's home is not just with his grandmother but includes her boyfriend and two siblings with whom he has resided for several years. When compared with the limited contacts Landon has had with his father, the paternal grandparents' short history of caring for the child, and defendant's parenting deficits, the judge's finding adoption would not do more harm than good was unassailable.

Affirmed.

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


CLERK OF THE APPELLATE DIVISION