

RECORD IMPOUNDED

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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-2849-21

NEW JERSEY DIVISION
OF CHILD PROTECTION
AND PERMANENCY,

Plaintiff-Respondent,

v.

J.N.B.,

Defendant-Appellant,

and

C.D.R.,

Defendant.

IN THE MATTER OF THE
GUARDIANSHIP OF C.N.-V.R.
AND C.D.R., minors.

Argued May 28, 2024 – Decided June 28, 2024

Before Judges Mawla, Marczyk, and Chase.

On appeal from the Superior Court of New Jersey, Chancery Division, Family Part, Monmouth County, Docket No. FG-13-0034-21.

Ryan Thomas Clark, Designated Counsel, argued the cause for appellant (Jennifer Nicole Sellitti, Public Defender, attorney; Ryan Thomas Clark, on the brief).

Jessica Anne Prentice, Deputy Attorney General, argued the cause for respondent (Matthew J. Platkin, Attorney General, attorney; Janet Greenberg Cohen, Assistant Attorney General, of counsel; Jessica Anne Prentice, on the brief).

Noel Christian Devlin, Assistant Deputy Public Defender, argued the cause for minors (Jennifer Nicole Silletti, Public Defender, Law Guardian, attorney; Meredith Alexis Pollock, Deputy Public Defender, of counsel; Noel Christian Devlin, of counsel and on the brief).

PER CURIAM

Defendant J.N.B. ("Juliet") appeals the Family Part's April 28, 2022 final judgment terminating her parental rights to her biological children, C.N.-V.R. ("Clara") and C.D.R. ("Calvin"), who were born of her relationship with C.R. ("Carter").¹ Carter withdrew his notice of appeal and does not take part. We affirm.

¹ We employ initials and pseudonyms to identify the parties, the children, and others to protect the children's privacy and because the records relating to Division proceedings held under Rule 5:12 are excluded from public access under Rule 1:38-3(d)(12).

I.

Juliet is the mother of seven children, none of whom are in her care. Carter is the father of Juliet's youngest three children: Clara, born in December 2014; Calvin, born in September 2017; and C.R. ("Callie"), born in April 2021.² Juliet was a longtime victim of childhood sexual abuse by her stepfather. Her oldest son was conceived due to a sexual assault by her cousin, D.R. Throughout this matter, and relevant here, her oldest son lived with D.R. and Juliet's maternal grandmother, who adopted him, in Delaware.

Carter, a registered sex offender, has a substantial criminal history including convictions for aggravated assault, child endangerment, terroristic threats, aggravated sexual assault, public nudity, and fugitive from justice. He has also been involved in multiple assaults on police. Carter has two other adult children. Germane to this appeal, Carter was convicted in 1998 of third-degree endangering the welfare of a child. According to the Prosecutor's Office, Carter "touched [his then-seven-year-old daughter] on her private parts, licked her private parts, and forced her to put her mouth on his penis." As part of his

² The termination of Juliet's parental rights to Callie is the subject of appeal in A-2073-22, and the finding of abuse and neglect of Callie is the subject of the appeal by both parents in A-0047-22 and A-0048-22. These matters are consolidated and are decided in a separate opinion today.

sentence, he is required to register as a Megan's Law sex offender and participate in the community supervision for life ("CSL") parole program, which has barred him from unsupervised contact with any children and prohibited him from residing with any minor. He has failed to comply with the sex offender registration requirements on multiple occasions.

Due to Carter's continued violation of the non-contact with children order, in 2014, Juliet's mother, C.S. ("Cathy"), was awarded sole physical custody of Juliet's four older children. Juliet was permitted to share legal custody if she remained living with Cathy.

Subsequently, Juliet left these children with Cathy to reside with Carter in a motel, where she lived when Clara was born. In January 2015, the trial court entered an order permitting Carter to live with Juliet and Clara, but not with any of Juliet's other children. The court further granted the Division of Child Protection and Permanency ("Division") care and supervision of Clara, with the parents retaining legal and physical custody.

Calvin's Birth and Division's Concerns Over Parenting

Calvin was born on September 12, 2017, and the hospital staff immediately contacted the Division, reporting that Juliet demonstrated mental health issues and seemed unable to care for the baby. The Division investigated,

completed a home check at the motel, and, after learning that Juliet and Carter planned to co-sleep with the children, required the family to obtain a bassinet for Calvin. The Division concluded allegations of "neglect of mental illness of caregiver" were not established.

Carter's parole officer contacted the Division to report his residence in the motel with Juliet, Clara, and newborn Calvin violated the previous court order, which authorized him to live only with Juliet and Clara. The Division investigated and corroborated these allegations, further finding the parents continued to co-sleep with Clara and infant Calvin in a single bed. Juliet appeared "erratic, illogical, defiant[,] and at times aggressive" during the investigation. The investigation further revealed Carter had been left alone with newborn Calvin, a violation of his parole. Carter agreed to rent a second room at the same motel, but never did.

In October 2017, the Division received a referral from an urgent care facility where Juliet had brought Clara for a physical exam in conjunction with the Division's investigation. The urgent care staff reported Clara had not been to a doctor in two years. Juliet told the reporter she did not believe in medical care and did not have Clara immunized for religious reasons. However, she provided no details on the religion. The reporter expressed concerns for the

mother's mental health and poor decision-making, as well as Clara's lack of dental care.

Juliet's Initial Psychological Evaluations

Juliet completed a psychological evaluation with Dr. Jonathan Mack in November 2017. Dr. Mack recommended Juliet complete a neuropsychological evaluation to rule out whether any cognitive impairments were impacting her parenting and judgment, and further recommended individual counseling to address personality disorder features. Juliet completed this neuropsychological evaluation, wherein Dr. Mack recommended Juliet complete an "intensive treatment program" such as an "intensive women's trauma program" where she "fully commits to obeying all rules in regard to [Carter's] contact with the children."

Juliet completed her own psychological evaluation with Dr. Susan Blackwell-Nehlig on January 3, 2018. Dr. Blackwell-Nehlig found Juliet had the potential to parent in the foreseeable future. She recommended Juliet engage in individual therapy to address her relationship with Carter, her parenting choices, and her traumatic past.

In October 2017, Clara and Calvin were placed in a resource home. In April 2018, Clara and Calvin were moved to another home with resource parents

A.B. ("Anne") and An.B. ("Alan"), where they have remained since that time. The Division repeatedly found the home suitable and the resource parents to be cooperative. Clara began play therapy and Calvin completed an early intervention assessment, which revealed a developmental delay requiring treatment.

Carter's and Juliet's Responses to Court Ordered Services

In April 2018, the court also ordered Juliet and Carter, who still lived together at the motel, to comply with the recommendations from their psychological evaluations. Juliet thus began counseling. In May 2018, Carter became aggressive with Juliet during a visit by the Division, but Juliet declined the Division's offer for domestic violence services. Juliet expressed she did not want to separate from Carter and reunification should occur with both parents. In August 2018, the court ordered Juliet to begin higher-level individual counseling. The Division arranged for Juliet to begin such therapy with Dr. Madine DeSantis. Dr. DeSantis concluded Juliet had a "narrow, restricted thought process" and "lack[ed] critical thinking skills." In December 2018, Dr. DeSantis reported Juliet might not have the "cognitive capacity" to recognize her past mistakes with parenting, including leaving the children unsupervised with Carter.

Throughout 2018, the children experienced a number of medical issues. Juliet initially refused to consent to have Clara's numerous cavities filled and, in April 2018, the court ordered the procedure to occur over her objection. The scope of the work required a hospital setting and anesthesia for what was characterized as a "complete oral rehab." Juliet twice declined the dentist's recommendation to meet with a hygienist to review how to care for her children's teeth.

At the same time, Calvin experienced rashes, which required medical treatment. Juliet rejected the pediatrician's suggestion that Calvin see an allergist. She also refused the pediatrician's additional recommendations: providing Calvin with solid food; allowing surgery to insert tubes in his ears; and providing him with a vitamin D shot. The records noted Calvin experienced "failure to thrive," was "falling off [the] growth curve," and was vomiting after consuming Juliet's breast milk. At Juliet's insistence, the resource parents continued to provide Calvin with her breast milk, which caused ongoing reactions, until bloodwork confirmed an egg allergy, and it was determined he should not have any more breast milk. Even after these incidents, Juliet continued to feed Calvin food to which he was allergic.

In May 2019, the court ordered the Division's abuse or neglect ("FN")

litigation to remain open and directed Juliet to continue counseling with Dr. DeSantis. The court also ordered Carter to cease kissing the children on the lips. Sometime around June 2019, Juliet temporarily moved into the Delaware home where D.R., the cousin who sexually assaulted her, also resided.

In July 2019, Carter and Juliet were both arrested after they found a wallet and used the owner's credit cards to make fraudulent purchases. The investigating police officers found Carter and Juliet living together in a motel room, contradicting Juliet's earlier representations that she lived in Delaware.

The parents lived together at the motel as of August 2019, and Dr. DeSantis reduced the frequency of Juliet's counseling sessions due to a lack of progress. In September 2019, Carter left the motel and moved in with Juliet's father. He failed to register as a sex offender at this new address, leading to an arrest and guilty plea as a result. He later returned to live at the motel with Juliet. In September and October 2019, Carter violated the no-contact order with Juliet's older children.

Initial Guardianship Trial

An initial guardianship trial occurred over fifteen days in the fall of 2019. The court, finding the Division did not establish all four prongs of the best interests test by clear and convincing evidence, dismissed the guardianship

complaint, and reopened the FN litigation with a goal of reunification.

Although Juliet reported living with Carter at the motel, visitation resumed in January 2020. Juliet again agreed to pursue alternate housing with the Division's assistance. The Division offered to provide the first month's rent and security deposit, furniture for a new home, and an accountant to help the family create a budget to determine what housing they could afford. The Division also recommended Juliet attend a free financial workshop.

From February through June 2020, the Division referred Juliet to multiple housing programs, assisted her in completing applications and mailed them on her behalf. Juliet's caseworker also accompanied her to a meeting with social services.

In August 2020, Juliet met with a staff member at the Food Bank of Monmouth County, who assisted her in creating a budget with the goal of finding housing. Juliet agreed to continue budgeting with this staff member, but the record does not demonstrate that she did so. The Division also referred Juliet to Fulfill Resource Connections for assistance with food stamps, health insurance, employment, and housing. Juliet was unable or unwilling to provide paystubs and Fulfill Resource Connections later reported Juliet had not engaged with the program.

Juliet became pregnant with Callie in the fall of 2020. In October 2020, the Division assisted Juliet in applying for available housing with Keeping Families Together, but she was not accepted into the program due to Carter's status as a sex offender. The Division also referred Juliet to an affordable housing complex in Red Bank.

In December 2020, after a two-day trial, the same trial judge who presided over the earlier guardianship trial entered an order approving a plan of termination of parental rights of Juliet and Carter. The judge noted there had been no progress in the year since the previous guardianship trial.

In May 2021, Juliet requested financial assistance from the Division to obtain an apartment in Wall, but she was not able to provide the necessary documentation for proof of her income. Juliet told the Division she had moved back into her relatives' home in Delaware, where D.R. lived. Nonetheless, she reported she was still in a relationship with Carter, and the Division regularly observed Juliet's vehicle parked at Carter's motel room overnight. The Division expressed concern Juliet would reside with the cousin who had sexually assaulted her. In December 2021, Juliet admitted she was again living with Carter at the motel.

Second Guardianship Trial

The second guardianship trial commenced in August 2021. The Division presented testimony from three caseworkers, Stephen Melnykevich, Alexandra Ucal, and Kyle Higgins, who testified to their years of contact and attempts to assist Juliet. The Division also presented testimony from Dr. DeSantis, Dr. David Brandwein, and Carter's then-current parole officer, Nicole Close. Dr. Karen Wells testified for the Law Guardian. Juliet presented testimony from: Dr. Blackwell-Nehlig; a therapist, Aklima Baksh; and a housing program liaison, Karen Asay.

Dr. Brandwein described his 2019 and 2021 evaluations of Juliet and the children. He testified Juliet was unable to safely parent Clara and Calvin because Juliet was unable to create the boundaries necessary with Carter to keep the children safe. He testified additional services would not change this circumstance.

As to his 2021 bonding evaluations, he emphasized the children's four-year placement in resource care negatively impacted any bonds with Juliet. He testified the children were securely bonded to the resource parents. He testified the children would suffer some harm if Juliet's rights were terminated, but the harm could be ameliorated by the resource parents and therapy. He testified greater harm would result if the children were returned to Juliet.

Dr. DeSantis described her individual psychotherapy with Juliet as well as her reunification therapy with Juliet and the children. Dr. DeSantis testified she did not observe significant therapeutic progress for Juliet and Juliet had not yet developed the skills required for parenting.

Dr. Wells testified to her 2019 and 2021 evaluations of both parents. She described Juliet's "ongoing trauma" and "some impairment in her judgment," and testified Juliet had a desire for the children to live in a "two-parent family." Dr. Wells testified that, through her relationship with Carter, Juliet prioritized this desire over her ability to safely parent. She testified Juliet had not made progress in treatment, despite almost four years of services. She testified Juliet was unable to safely parent the children or consistently understand their needs, such that the children were at risk of harm in her care.

Regarding the 2021 bonding evaluations, Dr. Wells testified Juliet had an intact bond with the children. She testified if Juliet's parental rights were severed, Clara would temporarily struggle emotionally, but Calvin would not struggle because of his young age. Moreover, if the court granted a judgment of guardianship the children would benefit from continued care by the resource parents and play therapy. The children had intact and secure bonds with the resource parents and would suffer significant harm if removed from their care.

Dr. Wells recommended permanency for the children by way of adoption by the resource parents.

Baksh testified Juliet would always have a "connection" to Carter. Juliet did not regard living in a domestic violence shelter as being a "long-term option." Baksh reported Juliet had made good progress since beginning therapy. She testified Juliet was placed on the housing program's waiting list for housing twice but was ruled out both times because she indicated she would live with Carter and because she would not promptly be reunified with her children, as required by the program.

Dr. Blackwell-Nehlig testified to observing positive interactions between Juliet and the children, and determined a secure bond existed between them. She testified terminating parental rights would cause more harm than good, and that harm could not be mitigated.

Following the trial, the court issued a thorough forty-one-page written decision and entered the judgment of guardianship. On appeal, Juliet claims the court erred in finding the Division satisfied by clear and convincing evidence all four prongs of the statutory best interests test. The Law Guardian urge us to affirm the court's decision.

II.

Our scope of appellate review is limited. It is well established in Title 30 cases we will not second-guess or substitute our judgment for that of the family court, provided its factual findings are "grounded in substantial and credible evidence in the record." N.J. Div. of Child Prot. & Permanency v. D.C.A., 256 N.J. 4, 19 (2023). "Deference is especially appropriate 'when the evidence is largely testimonial and involves questions of credibility.'" Cesare v. Cesare, 154 N.J. 394, 412 (1998) (quoting In re Return of Weapons to J.W.D., 149 N.J. 108, 117 (1997)). "We accord deference to fact[-]findings of the family court because it has the superior ability to gauge the credibility of the witnesses who testify before it and because it possesses special expertise in matters related to the family." N.J. Div. of Youth & Fam. Servs. v. F.M., 211 N.J. 420, 448 (2012). "[A] trial court's factual findings 'should not be disturbed unless they are so wholly unsupportable as to result in a denial of justice.'" N.J. Div. of Youth & Fam. Servs. v. P.P., 180 N.J. 494, 511 (2004) (quoting In re Guardianship of J.N.H., 172 N.J. 440, 472 (2002)). We owe no deference to a judge's legal conclusions which are reviewed de novo. N.J. Div. of Child Prot. & Permanency v. A.B., 231 N.J. 354, 369 (2017).

The applicable law is clear. In considering whether to terminate parental rights, the trial court applies the statutory best interests test, which requires consideration of the following four prongs:

(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 each prong by "clear and convincing evidence." N.J. Div. of Child Prot. & Permanency v. D.H., 469 N.J. Super. 107, 115 (App. Div. 2021). These prongs are not discrete and separate; they overlap to inform a more general inquiry that the termination of parental rights is in a child's best interests. N.J. Div. of Child Prot. & Permanency v. R.L.M., 236 N.J. 123, 145 (2018). "The question ultimately is not whether a biological mother or father is

a worthy parent, but whether a child's interest will best be served by completely terminating the child's relationship with that parent." N.J. Div. of Youth & Fam. Servs. v. T.S., 417 N.J. Super. 228, 249 (App. Div. 2010) (quoting N.J. Div. of Youth & Fam. Servs. v. E.P., 196 N.J. 88, 108 (2008)).

"Parents have a constitutionally protected right to maintain a relationship with their children." N.J. Div. of Youth & Fam. Servs. v. M.M., 189 N.J. 261, 279 (2007). That right, however, "is not absolute" and 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., 211 N.J. at 447. In guardianship and adoption cases, such as here, it is well-established that "[c]hildren have their own rights, including the right to a permanent, safe[,] and stable placement." N.J. Div. of Youth & Fam. Servs. v. C.S., 367 N.J. Super. 76, 111 (App. Div. 2004). We acknowledge "the need for permanency of placements by placing limits on the time for a birth parent to correct conditions in anticipation of reuniting with the child." Ibid. Thus, a parent's interest must, at times, yield to the State's obligation to protect children from harm. See N.J. Div. of Youth & Fam. Servs. v. G.M., 198 N.J. 382, 397 (2009).

III.

A.

Juliet first argues the court erred in finding the Division satisfied the first prong of the best interests test because the terms of Carter's CSL, specifically that he could not live with children, do not provide a legal basis for the court's finding that Juliet harmed the children. Under this prong, "the Division must prove harm that 'threatens the child's health and will likely have continuing deleterious effects on the child.'" N.J. Div. of Youth & Fam. Servs. v. A.L., 213 N.J. 1, 25 (2013) (quoting In re Guardianship of K.H.O., 161 N.J. 337, 352 (1999)). The "focus is on the effect of harms arising from the parent-child relationship over time on the child's health and development." K.H.O., 161 N.J. at 348. "To satisfy this prong, [the Division] does not have to wait 'until a child is actually irreparably impaired by parental inattention or neglect.'" F.M., 211 N.J. at 449 (quoting In re Guardianship of DMH, 161 N.J. 365, 383 (1999)).

The record reflects the court found the children's safety, health, or development had been and would be harmed by the parental relationship because Juliet was fully aware of Carter's inability to live with children and "refused to separate herself either physically or emotionally" from him, despite knowing it

would cause her to remain away from her children. The court found a legitimate concern Juliet was unwilling and unable to protect the children from Carter.

The court also credited Dr. Brandwein's testimony that Juliet suffered from a personality disorder which impacted her ability to safely parent the children and that Juliet lacked insight and tended to minimize her own behavior. The court further cited testimony about Juliet's decision to live in her relatives' home with D.R. It also emphasized Juliet's report to Dr. Wells that she wanted the children to have a two-parent home and Dr. Wells' opinion that Juliet could not safely and consistently parent the children. The court further credited testimony from Dr. Blackwell-Nehlig that Juliet did not fully understand the risk of sexual abuse by Carter and found that Juliet would likely support contact between Carter and the children prohibited by the terms of his CSL.

There was abundant evidence to support the court's finding that the children had been, and would continue to be, harmed by their relationship with Juliet. Her refusal to separate from Carter prolonged this matter, extended the children's resource home placement, and precluded Juliet from obtaining housing, which would have facilitated reunification. Further, Juliet did not allow important medical care for both Clara and Calvin. The court correctly found the Division carried its burden as to the first prong.

B.

Juliet next argues the Division did not demonstrate, as required by the second prong, she was unable or unwilling to eliminate the alleged harm facing the children or was unable or unwilling to provide a safe and stable home for them. She also argues the delay in permanent placement will add to the harm. She attributes her failure to obtain housing to the COVID-19 pandemic. Furthermore, she argues the trial court ignored evidence she is willing and able to parent as a single mother without Carter and evidence she is employed, compliant with counseling, and consistent with visitation.

Under the second prong, "[t]he inquiry centers on whether the parent is able to remove the danger facing the child." F.M., 211 N.J. at 451. Because the first two prongs are closely intertwined, "evidence that supports one [prong] informs and may support the other as part of the comprehensive basis for determining the best interests of the child." DMH, 161 N.J. at 379.

In support of its finding, the court pointed to testimony that Juliet left the children alone with Carter in the motel room, testimony the children were medically neglected, and the family's lack of housing. It also noted Juliet's lack of progress toward being able to care for the children independently, and her

continued relationship with Carter. The court also found any further delay in permanency would only add to the harm.

The evidence of Juliet's current employment, compliance with counseling, and consistent visitation did not overcome the fact she was unable to protect the children from harm, and her failure to eliminate the harm facing the children. Dr. Brandwein, Dr. Wells, and the caseworkers credibly testified to Juliet's unwillingness to separate from Carter, and her desire for the family to remain intact. Juliet also allowed Carter to see her older children in violation of a court order barring such contact. There was further evidence Juliet was unable or unwilling to obtain housing, whether with or apart from Carter. This evidence amply supports the court's finding that the second prong was satisfied.

C.

With respect to the third prong, Juliet argues the Division did not demonstrate by clear and convincing evidence its reasonable efforts to provide her with services. Specifically, she claims the Division failed to provide housing assistance to enable family reunification, in that it forced her to include Carter on her application for a housing program even though the Division knew she was ineligible because she would not be timely reunified with the children.

The third prong requires the Division to undertake "reasonable efforts to provide services to help the parent correct the circumstances which led to the child's placement outside the home" and requires the court to consider "alternatives to termination of parental rights." N.J.S.A. 30:4C-15.1(a)(3).

"Reasonable efforts" include, but are not limited to:

- (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).]

Courts do not measure reasonableness by the "success" of the efforts. N.J. Div. of Youth & Fam. Servs. v. J.S., 433 N.J. Super. 69, 90 (App. Div. 2013) (quoting DMH, 161 N.J. at 393). What is reasonable "depend[s] on the facts and circumstances of each case." N.J. Div. of Child Prot. & Permanency v. R.G., 217 N.J. 527, 557 (2014).

The record is replete with evidence of the Division offering Juliet multiple services, in multiple ways, and on multiple occasions, to help correct the

circumstances which led to the children being placed outside the home. Indeed, the court cited the reunification therapy with Dr. DeSantis, and credited her testimony that Juliet was not capable of implementing the strategies she learned in reunification therapy. The court also pointed to Juliet's therapy with Baksh, and credited Baksh's testimony that Juliet desired an intact family and that Juliet had trouble standing up to Carter. The court also credited testimony that the Division assessed friends and family as placement options, but none were suitable. It credited testimony that the children had structure and stability in the resource home and that all their needs were being met. The court explicitly rejected Juliet's contention the Division did not provide her with sufficient resources to obtain housing.

This prong also requires the court to consider alternatives to the termination of parental rights. N.J.S.A. 30:4C-12.1. The statute "does not permit the Division to embark on a course set for termination of parental rights and adoption by a foster parent without at least first exploring available relative placements." N.J. Div. of Youth & Family Servs. v. K.L.W., 419 N.J. Super. 568, 580 (App. Div. 2011). An important objective of the statutory scheme is "prompt identification of relatives and notice to them of the results of the investigation and the potential for termination if the child remains in foster

care." Ibid.

Here, the court's finding that the third prong was satisfied was supported by significant evidence in the record. Throughout this matter, the Division worked to reunify Juliet with Clara and Calvin by providing numerous housing resources, visitation, reunification therapy, professional evaluations, and services. However, Juliet made no progress toward reunification, as she still lived with Carter at the motel, Carter's parole did not allow him to live with children, and Juliet was unable or unwilling to live independently from Carter. Her occasional temporary relocation to her relatives' home in Delaware, with the cousin who sexually assaulted her, further demonstrated this poor judgment.

Juliet's arguments regarding the extent of the Division's assistance with housing and her assertion the Division sabotaged her application to the housing program are unsupported by the record. The record demonstrates the Division constantly referred Juliet to numerous housing resources over the multi-year course of this matter, not only the program for which Juliet claims the Division knew she was ineligible. The Division agreed to provide financial assistance, including a security deposit and furniture. They also attempted to assist Juliet with the apartment in Wall, but she refused to submit the required budget documentation. To the extent the Division may have assisted Juliet with the

application which listed Carter as a resident, this was consistent with Juliet's oft-stated desire to live as an intact, "two-parent" family. The court's finding as to the third prong is amply supported by the record.

D.

Juliet argues the Division did not demonstrate by clear and convincing evidence the termination of her parental rights will not do more harm than good. She claims: (a) Clara wants to live with her, does not love her resource parents, and remains fearful of her resource home environment; and (b) the children are educationally and medically neglected in their resource home.

The fourth prong of the best interests test "serves as a fail-safe against termination even where the remaining standards have been met." E.P., 196 N.J. at 108. "The question ultimately is not whether a biological mother or father is a worthy parent, but whether a child's interest will best be served by completely terminating the child's relationship with that parent." Ibid. The question to be addressed "is whether, after considering and balancing the two relationships, the child will suffer a greater harm from the termination of ties with her natural parents than from the permanent disruption of her relationship with her foster parents." K.H.O., 161 N.J. at 355 (1999).

"[A] child's need for permanency is an extremely important consideration

pursuant to this prong." R.G., 217 N.J. at 559. "[A] child has a right to live in a stable, nurturing environment and to have the psychological security that his most deeply formed attachments will not be shattered." F.M., 211 N.J. at 453. But "[k]eeping the child in limbo, hoping for some long[-]term unification plan, would be a misapplication of the law." N.J. Div. of Youth & Fam. Servs. v. A.G., 344 N.J. Super. 418, 438 (App. Div. 2001).

Here, the court found the termination of parental rights would not do more harm than good. The court considered the children's ages, overall health, and development, concluding their best interests would be best served by a stable and safe home where their emotional and physical needs would continue to be met. In support of this finding, the court credited Dr. Brandwein's testimony the children were securely bonded to the resource parents, and the children were harmed by the lengthy lack of permanency. It credited his concern Juliet could not keep the children safe and credited his testimony that the children required permanency. The court also credited Dr. Wells' testimony regarding the children's intact and secure bond with the resource parents. The court noted none of the experts, even Juliet's experts, endorsed her as an independent caregiver.

The record supports the court's fourth prong findings. There was ample

evidence Juliet could not keep the children safe and would not fully separate from Carter, even though this limited her opportunities for housing. And the children were securely bonded to the resource parents and needed permanency because of the length of this case.

Juliet's factual assertions that Clara wants to live with her, does not love the resource parents, and is fearful of the resource home environment are unsupported by the record. The record is replete with examples of Clara's attachment to the resource parents, including Dr. Brandwein's testimony of a secure bond, and the caseworkers' contact sheets make clear that the resource home was safe and secure.

Juliet's argument that the children were educationally and medically neglected in the resource home is similarly unsupported by the record. The resource parents were first responders during the COVID-19 pandemic, which caused them to miss certain appointments. However, the record does not demonstrate any sort of educational or medical neglect in their care, and, contrarily, suggests they were wholly attentive to the children. For example, even during the busy COVID-19 pandemic, they participated in an IEP conference with Division caseworkers at Calvin's school. The court did not err in finding the Division carried its burden to demonstrate that termination of

Juliet's parental rights would not do more harm than good.

Finally, to the extent we have not otherwise addressed any of appellant's remaining arguments, we determine they lack 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