

RECORD IMPOUNDED

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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0961-21

NEW JERSEY DIVISION
OF CHILD PROTECTION
AND PERMANENCY,

Plaintiff-Respondent,

v.

Q.D.R.T.-J.,

Defendant-Appellant,

and

H.M. and the unknown
biological father of
AL'Q.S.T.-J. whomsoever he
may be,

Defendants.

IN THE MATTER OF THE
GUARDIANSHIP OF
AL'Q.S.T.-J., a minor.

Submitted June 1, 2022 – Decided June 10, 2022

Before Judges Fisher, DeAlmeida and Smith.

On appeal from the Superior Court of New Jersey, Chancery Division, Family Part, Essex County, Docket No. FG-07-0061-21.

Joseph E. Krakora, Public Defender, attorney for appellant (Louis W. Skinner, Designated Counsel, on the briefs).

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

Joseph E. Krakora, Public Defender, Law Guardian, attorney for minor (Meredith Alexis Pollock, Deputy Public Defender, of counsel; Noel C. Devlin, Assistant Deputy Public Defender, of counsel and on the brief).

PER CURIAM

Defendant Q.D.R.T.-J. gave birth to AL'Q.S.T.-J. (Adam) in July 2018.¹ The Division of Child Protection and Permanency became involved with defendant and Adam in September 2018 on receiving a referral that defendant was acting erratically, yelling and screaming at two-month-old Adam, and that she pushed Adam, while he was in a stroller, into a fence. On further investigation, the Division learned defendant had been diagnosed with

¹ In June 2019, defendant gave birth to a daughter, who resides with her biological father and is not a subject of this litigation.

depression, bipolar disorder, mood disorder, and attention deficit hyperactivity disorder. The Division concluded the allegations were "not established" but nevertheless placed an aide in the home where defendant was staying due to concerns for her mental state. Two weeks later, while she and Adam were residing with defendant's adoptive mother, defendant and her teenaged adoptive brother got into a physical altercation during which defendant threatened him with a knife. No one was harmed but defendant was arrested, and the Division conducted an emergency removal of Adam, placing him with defendant's adoptive mother. When defendant was released from incarceration, she moved in with her father. Adam was soon placed in a resource home of a non-relative because the relatives suggested by defendant had been ruled out. The child has remained in that resource home ever since.

The court approved the Division's permanency plan for the termination of defendant's parental rights and the matter proceeded to a one-day guardianship trial, at the conclusion of which the judge rendered findings of fact. The judge found that the Division presented clear and convincing evidence to support the termination of defendant's parental rights. In appealing, defendant argues the judge's findings on all four statutory prongs were against the weight of the evidence. We disagree.

Parents have a constitutionally protected right to the care, custody and control of their children. Santosky v. Kramer, 455 U.S. 745, 753 (1982); In re Guardianship of K.H.O., 161 N.J. 337, 346 (1999). "The rights to conceive and to raise one's children have been deemed 'essential,' 'basic civil rights . . .,' [that are] 'far more precious . . . than property rights.'" Stanley v. Illinois, 405 U.S. 645, 651 (1972) (citations omitted). "[T]he preservation and strengthening of family life is a matter of public concern as being in the interests of the general welfare." N.J.S.A. 30:4C-1(a); see also K.H.O., 161 N.J. at 347.

But the constitutional right to the parental relationship is not absolute. N.J. Div. of Youth & Fam. Servs. v. R.G., 217 N.J. 527, 553 (2014); N.J. Div. of Youth & Fam. Servs. v. A.W., 103 N.J. 591, 599 (1986). At times, a parent's interest must yield to the State's obligation to protect children from harm. N.J. Div. of Youth & Fam. Servs. v. G.M., 198 N.J. 382, 397 (2009); In re Guardianship of J.C., 129 N.J. 1, 10 (1992). To effectuate these concerns, the Legislature created a test for determining when a parent's rights must be terminated in a child's best interests. N.J.S.A. 30:4C-15.1(a) requires that the Division prove by clear and convincing evidence 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.

See also A.W., 103 N.J. at 604-11. The judge found the Division demonstrated, by clear and convincing evidence, that all four prongs supported termination of defendant's parental rights.

As for the first prong, the judge found that the Division proved defendant was suffering from mental health issues that were not adequately treated, lacked stable housing or income, and was unable to control her compulsive, erratic, and sometimes violent behavior, which led to physical altercations with others. The judge found prong two was supported by evidence of defendant's inconsistent compliance with offered services, all of which had contributed to an unstable lifestyle that prevented defendant from being able to properly care for Adam. The judge found the Division offered numerous services to assist defendant in overcoming the circumstances that caused the child's removal and that stood in

the way of reunification, thereby satisfying the Division's burden of persuasion on the third prong. And the judge found defendant's failure to fully cooperate precluded the presentation of a comparative bonding evaluation and for that and other reasons, termination would do less harm than good.

The judge's thorough findings, which we have only synopsised, were supported by evidence found credible; the factual findings are, therefore, deserving of our deference. N.J. Div. of Youth & Fam. Servs. v. F.M., 211 N.J. 420, 448-49 (2012); Cesare v. Cesare, 154 N.J. 394, 413 (1998).

We affirm the judgment terminating defendant's parental rights to Adam substantially for the reasons set forth in Judge Garry J. Furnari's comprehensive and well-reasoned oral decision.

Affirmed.

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



CLERK OF THE APPELLATE DIVISION