

RECORD IMPOUNDED

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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-2405-15T4
A-2406-15T4

NEW JERSEY DIVISION OF CHILD
PROTECTION AND PERMANENCY,

Plaintiff-Respondent,

v.

J.S. AND R.J.D., Sr.,

Defendants-Appellants.

IN THE MATTER OF THE GUARDIANSHIP
OF R.J.D., Jr. and S.M.D., minors.

Submitted February 14, 2017 – Decided March 9, 2017

Before Judges Koblitiz, Rothstadt and Sumners.

On appeal from Superior Court of New Jersey,
Chancery Division, Family Part, Camden County,
Docket No. FG-04-102-16.

Joseph E. Krakora, Public Defender, attorney
for appellant J.S. (Albert M. Alfonso,
Designated Counsel, on the brief).

Joseph E. Krakora, Public Defender, attorney
for appellant for R.J.D., Sr. (Elizabeth
Smith, Designated Counsel, on the brief).

Christopher S. Porrino, Attorney General,
attorney for respondent (Melissa Dutton-
Schaffer, Assistant Attorney General, of

counsel; Michelle Perry-Thompson, Deputy Attorney General, on the brief).

Joseph E. Krakora, Public Defender, Law Guardian, attorney for minors (Charles Ouslander, Designated Counsel, on the brief).

PER CURIAM

Both parents appeal from the February 1, 2016 order terminating their parental rights to their two younger children, R.J.D., Jr., then three-and-one-half years old, and S.M.D., then twenty-one months old.¹ During trial, the parties' older daughter, then nine years old, was dismissed by consent from the termination litigation and the parents were given more time to ameliorate their situation in the hopes of reunifying with her. The parents argue that further time should have been provided them with regard to the two younger children also, and that the Division of Child Protection and Permanency (Division) did not prove the required statutory factors by clear and convincing evidence. The law guardian supports the judge's decision. After reviewing the record in light of the contentions advanced on appeal, we affirm substantially for the reasons set forth by Judge Francine Axelrad in her thorough oral opinion of February 1, 2016.

The evidence is outlined in detail in the judge's oral opinion, which is set forth in seventy-one transcript pages. A

¹ We consolidated these appeals by order dated March 2, 2016.

summary will suffice here. The Division first became involved with this family when the older daughter suffered withdrawal symptoms at birth from her exposure to methadone in utero. The Division became reinvolved when R.J.D., Jr. also went through withdrawal after his birth in 2012. When S.M.D. was born in 2014 she too went through withdrawal. At that time the Division developed a safety plan with the parents requiring that the mother, J.S., could not be left alone with any of the children due to her inability to deal with her drug problem. When J.S. was found alone with the children, the children were removed and then returned to their father, R.J.D., Sr. J.S. failed to comply with numerous drug programs. Domestic violence between the parents also occurred, after which R.J.D., Sr. was evaluated and referred for individual counseling, which he failed to attend. He did complete a batterers' program. The parents were homeless and lived under a bridge for five months in 2015. When R.J.D., Sr. found housing with a friend, the home was too small to accommodate the children. The three children were placed with their maternal grandparents until the grandparents were no longer able to take care of the younger two children, who were then placed in a resource home. The resource parents have facilitated sibling visitation and are willing to adopt the younger two children.

The only expert to testify, psychologist Dr. Frank Schwoeri, evaluated both parents and conducted bonding evaluations. He found that J.S. had severe drug and mental health issues that would prevent her from safely parenting the children. He found the relationship between the parents was "toxic," involving drug usage and domestic violence. J.S.'s son was insecurely bonded to her and her baby daughter was not bonded to her. The two children did not yet have a secure bond with their resource parents, but their relationship was solidifying and they were involved with therapy to address their special needs. The older daughter had a strong, albeit "parentified" relationship with her mother, and a deep bond with her father. Thus, Dr. Schwoeri did not recommend that this older child, the only one who had continued to live with her grandparents throughout, be permanently separated from her parents.

Dr. Schwoeri's evaluation of R.J.D., Sr. revealed a drug history, prior incarceration, and mental health issues. The doctor opined that the father was not then capable of parenting his children. He opined that both parents would need at least another year before they could take custody of their children. Dr. Schwoeri found similar bonding between the children and their father as he had with their mother. He opined that the two younger children would not be harmed by severing their relationship with

their parents and could not wait a year for a secure and permanent home without suffering severe and enduring harm.

A police officer also testified about a 2014 domestic violence incident perpetrated by R.J.D., Sr. on J.S., after which the father was arrested and the children removed. The older daughter reported witnessing numerous incidents of domestic violence as well as drug usage by J.S.

In her comprehensive opinion, the trial judge found that the Division had proven all four prongs of the best interests test, N.J.S.A. 30:4C-15.1(a), and that termination of defendants' parental rights was in the children's best interests. On this appeal, our review of the trial judge's decision is limited. We defer to her expertise as a Family Part judge, Cesare v. Cesare, 154 N.J. 394, 412 (1998), and we are bound by her 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)). After reviewing the record, we conclude that Judge Axelrad's factual findings are fully supported by the record and, in light of those facts, her legal conclusions are 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