

RECORD IMPOUNDED

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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-4516-15T1

NEW JERSEY DIVISION
OF CHILD PROTECTION
AND PERMANENCY,

Plaintiff-Respondent,

v.

F.D.,

Defendant-Appellant.

IN THE MATTER OF THE
GUARDIANSHIP OF D.D.
and F.D.,

Minors.

Submitted May 31, 2017 – Decided June 28, 2017

Before Judges Messano and Suter.

On appeal from the Superior Court of New
Jersey, Chancery Division, Family Part, Hudson
County, Docket No. FG-09-118-13.

Joseph E. Krakora, Public Defender, attorney
for appellant (Jennifer M. Kurtz, Designated
Counsel, on the brief).

Christopher S. Porrino, Attorney General,
attorney for respondent (Andrea M. Silkowitz,
Assistant Attorney General, of counsel; Lauren

J. Oliverio, Deputy Attorney General, on the brief).

Joseph E. Krakora, Public Defender, Law Guardian for minors (Sean Lardner, Designated Counsel, on the brief).

PER CURIAM

In our prior opinion, we affirmed termination of the parental rights of defendant, F.D. (Felicia), to three of her children, and reversed the trial court's denial of a motion for reconsideration filed by the Division of Child Protection and Permanency (the Division), following dismissal of the Division's guardianship complaint as to defendant's two other children, F.D. (Fay) and D.D. (Doris).¹ N.J. Div. of Child Prot. & Permanency v. H.R., Nos. A-4991-13, A-4992-13, A-2104-14 (App. Div. Jan. 4, 2016) (slip op. at 2-3). In doing so, we affirmed the judge's findings and conclusions with respect to the first three prongs of the statutory best-interests-of-the-child test, N.J.S.A. 30:4C-15.1(a)(1)-(3), as to all five children. Id. at 18-23. The judge also concluded the Division met its burden of proof on the fourth prong as to Felicia's three other children, but, as to Fay and Doris, the judge concluded the Division failed to carry its burden

¹ We use initials and pseudonyms to protect the privacy of those involved.

of proof, given the lack of a specific, then-available adoptive home for the girls. Id. at 24.

We concluded the judge should have granted the Division's motion for reconsideration based upon new evidence. Specifically, the girls' foster mother, with whom they were placed near the end of the guardianship trial, now wished to adopt them. Id. at 27. We remanded "for a hearing as to whether '[t]ermination of parental rights will not do more harm than good.'" Id. at 28-29 (citing N.J.S.A. 30:4C-15.1(a)(4)).² We did not retain jurisdiction. Id. at 29.

The trial judge conducted the remand hearing and considered the testimony of the Division's caseworker, Kerry Farrell, its psychological expert, Dr. Frank Dyer, who also testified at the guardianship trial, and T.L. (Tara), Fay's and Doris's putative adoptive parent.

Tara expressed her desire to adopt the girls, and her willingness to permit their continued contact with Felicia and their other siblings. Farrell detailed the history of the girls' placements, noted they had been with Tara now for approximately twenty-six months, and were doing very well. She reiterated Tara's desire to adopt Fay and Doris, and the girls' desire to be adopted.

² H.R., the father of all five children, died during the remand proceedings.

Dr. Dyer testified regarding the psychological evaluation of Felicia and the bonding evaluations he conducted after the guardianship trial and prior to the remand hearing.

In her comprehensive oral opinion, the judge reviewed the testimony and found Tara and Farrell to be credible witnesses. She considered Dr. Dyer's most recent evaluations and accepted his opinion that Felicia remained unable to parent the children and "her inability [was] not at all likely to change in the foreseeable future." The judge also found that both Fay and Doris lacked any strong attachment to their mother, and the girls had formed a strong attachment to Tara.

The judge also concluded that severing the girls' relationship with Felicia might cause some harm, but not any "serious loss or psychological harm," and any harm could be mitigated by the strong relationship Fay and Doris had formed with Tara. The judge found by clear and convincing evidence that terminating Felicia's parental rights "would not do more harm than good." She entered a conforming order, and this appeal followed.

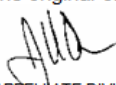
Before us, Felicia argues the Division failed to prove that termination of her parental rights to Fay and Doris would not do more harm than good, and the Division failed to provide adequate services to support reunification. See N.J.S.A. 30:4C-15.1(a)(3) (requiring the Division to make "reasonable efforts to provide

services to help the parent correct the circumstances which led to the child's placement outside the home"). The Division urges us to affirm, arguing the judge properly limited the remand hearing to consideration of prong four, and the Division's proofs were clear and convincing. Similarly, the children's Law Guardian supports affirmance of the termination order.

Having considered these arguments in light of the record and applicable legal principles, we affirm. The judge's factual findings are adequately supported by the evidence adduced at the remand hearing. R. 2:11-3(e)(1)(A). Additionally, the judge's legal conclusions were appropriate and wholly supported by the record evidence. See, e.g., N.J. Div. of Youth & Family Servs. v. L.L., 201 N.J. 210, 227 (2010) (holding the judge's legal conclusions should not be disturbed unless they are "clearly mistaken or wide of the mark[,]" and require our intervention "to ensure the fairness of the proceeding" (alteration in original) (quoting N.J. Div. of Youth and Family Servs. v. E.P., 196 N.J. 88, 104 (2008))).

Affirmed.

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


CLERK OF THE APPELLATE DIVISION