RECORD IMPOUNDED

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-4814-14T2
A-4950-14T2
A-4951-14T2
A-4952-14T2
A-4953-14T2

NEW JERSEY DIVISION OF CHILD PROTECTION AND PERMANENCY,

Plaintiff-Respondent,

v.

L.T.,

Defendant-Appellant.

IN THE MATTER OF L.T., Jr.,

A Minor.

NEW JERSEY DIVISION OF CHILD PROTECTION AND PERMANENCY,

Plaintiff-Respondent,

v.

L.T., TY.F., E.S. AND TA.F.,

Defendants-Appellants.

IN THE MATTER OF L.T. and L.T., Jr.,

Minors.

Submitted March 28, 2017 – Decided July 7, 2017

Before Judges Messano, Espinosa and Grall.

On appeal from the Superior Court of New Jersey, Chancery Division, Family Part, Camden County, Docket Nos. FN-04-523-14 and FN-04-376-14.

Joseph E. Krakora, Public Defender, attorney for appellants (Lora B. Glick, Designated Counsel for appellant L.T. in A-4814-14 and A-4950-14, on the briefs; Susan M. Markenstein, Designated Counsel for appellant Ty.-F. in A-4951, on the briefs; John A. Salois, Designated Counsel for appellant E.S. in A-4952-14, on the briefs; Marina Ginzburg, Designated Counsel for appellant Ta.F. in A-4953-14, on the brief).

Christopher S. Porrino, Attorney General, attorney for respondent (Melissa Dutton Schaffer, Assistant Attorney General, of counsel; Angela N. Domen, Deputy Attorney General, on the briefs).

Joseph E. Krakora, Public Defender, Law Guardian for minors (Melissa R. Vance, Assistant Deputy Public Defender, on the briefs).

PER CURIAM

In A-4814-14, following a fact-finding hearing, see N.J.S.A. 9:6-8.44, the Family Part judge entered her December 2014 order concluding defendant, L.T. (Larry), had abused his newborn son,

L.T. Jr. (Larry Jr.).[1] Larry appeals, arguing the judge misapplied the burden-shifting paradigm we enunciated in In re D.T., 229 N.J. Super. 509 (App. Div. 1988), and plaintiff, the Division of Child Protection and Permanency (the Division), otherwise failed to prove by a preponderance of "competent, material and credible evidence" that defendant abused Larry Jr.

For purposes of issuing a single opinion, we now consolidate A-4814-14 involving abuse of Larry Jr., with four previously consolidated appeals involving abuse of Larry's daughter L.T. (Lucy) and challenging the Family Part's July 21, 2014 order following a fact-finding hearing. The same Family Part judge heard that case and concluded Larry, and defendants Ty.F. (Tori), Lucy's mother, Ta.F. (Teresa), Lucy's grandmother and Tori's mother, and E.S. (Emily), Lucy's great-grandmother and Tori's grandmother, physically abused Lucy. Those appeals also raise issues regarding our holding in D.T.

In Larry's appeal concerning Lucy, A-4950-14, he reiterates the arguments made in his other appeal and further contends the judge erroneously admitted evidence as to Larry, Jr., during the fact-finding hearing involving Lucy. In A-4951-14, Tori argues the judge misapplied D.T., the Division's evidence was

[1] We use initials and pseudonyms to keep the parties' identities confidential. R. 1:38-3(d)(12).

insufficient, and, on both constitutional and procedural grounds, the judge should have excluded evidence from an interview Tori gave during the criminal investigation into Lucy's physical abuse. In A-4952-14, Emily argues the judge misapplied D.T., and the evidence was otherwise insufficient. Lastly, Teresa makes similar arguments in A-4953-14.

The Division urges us to affirm the order entered in each proceeding against all defendants. Larry Jr.'s Law Guardian urges us to affirm the order under review in A-4814-14; Lucy's Law Guardian similarly urges us to affirm the order under review in the other appeals.

As to A-4814-14

I.

The Division was already investigating Larry in connection with injuries to Lucy when Larry Jr. was born on February 1, 2014. At the time, Larry was living with the child's mother, K.L. (Kate), in a home with Kate's biological mother L.L. (Linda), and Linda's husband, D.M. (Donald). On February 21, Kate executed the Division's safety plan and moved with Larry Jr. from Camden to Glassboro to live with her adoptive mother, D.B. (Denise).[2] Two

[2] The Division amended its complaint against Larry and Kate to include eventually Linda, Donald and Denise as defendants.

days later, Kate called 9-1-1 when Larry Jr. exhibited symptoms of a seizure. A skeletal survey revealed that the child had suffered several rib fractures at various stages of healing. The Division effectuated an emergency removal and filed a verified complaint seeking care, custody and supervision of Larry Jr.

The Division's investigation[3] revealed that, before emergency medical technicians arrived in response to the 9-1-1 call, Kate sought assistance from her neighbor, a nurse. The nurse administered cardiopulmonary resuscitation (CPR) to Larry Jr. Larry told the Division's caseworkers that he had not seen his son since the Division implemented the safety plan. He acknowledged usually bathing Larry Jr. every other day, but denied any knowledge of how the child's injuries occurred. Larry questioned whether the administration of CPR could have been the cause.

At the fact-finding hearing, Dr. Kathryn McCans testified as an expert in child abuse pediatrics and pediatric emergency medicine. She explained that the skeletal survey showed no fewer than seven definitive rib fractures and two other areas of concern.

[3] After conducting its investigation, the Division concluded that child abuse was "not established." See N.J. Div. of Child Prot. & Permanency v. V.E., 448 N.J. Super. 374, 388-89 (App. Div. 2017) (explaining the Division's regulatory scheme in this regard). At the fact-finding hearing, a caseworker explained this determination reflected the Division's inability to decide who had inflicted Larry Jr.'s injuries.

Dr. McCans opined that a single event could not have caused the fractures because they were at various stages of healing, nor did the administration of CPR or the birth process cause these injuries.

However, the doctor could not say with precision when any of the fractures occurred, although she classified one displaced fracture as acute, that is, having occurred "very recently" before the time of examination. Dr. McCans acknowledged that this fracture may have been caused during the administration of CPR, but stated it was unlikely that the "two-finger" method used by the nurse-neighbor would have caused the injury. Dr. McCans opined that the fractures occurred at some point during the "three to three and a half week time frame" marked by the infant's "whole life span."

The doctor concluded the most likely cause was physical abuse, pointing to the number of fractures sustained at different times, the lack of any satisfactory explanation in the history recounted by the child's caregivers, and the unlikelihood of alternative causes. She opined it was unlikely that any of the injuries were caused accidentally.

After conclusion of the Division's case and following her rejection of defense arguments that the injuries were caused by accident or during the administration of CPR, and citing D.T., the

judge said, "I am going to shift the burden . . . because I find that the Division has . . . established a prima facie case that this is . . . child abuse . . . ." Kate and Donald then testified; Larry did not.

Kate testified about her history of domestic violence with Larry. She denied causing any injuries to Larry Jr. or knowing how they occurred. Kate stated Larry Jr. was usually in her care, and that she left the child three times with Larry or Linda. Kate said Donald never held the child nor was Larry Jr. left alone with Donald.

Donald testified he never held Larry Jr., nor cared for him. However, he recalled one occasion when the child was left alone with Larry in the bedroom while Kate was at church. Donald and Linda heard an unusual cry from the child, and Linda knocked on the closed bedroom door to check. Larry assured them there was no problem, although Donald claimed Larry Jr. continued to cry for several minutes.

In her oral opinion that followed the hearing, the judge reviewed the testimony, finding Dr. McCans to be credible and concluding Larry Jr.'s injuries were "of a non-accidental nature and were caused by . . . someone." The judge declared this was "a classic burden shifting case." The judge found Kate's testimony credible, and noting Larry's involvement in the abuse and neglect

matter regarding his other child, found it "quite interesting" that Kate quickly left with her son and moved in with Denise in Glassboro. The judge also credited Donald's testimony.

She concluded the Division had not proven its case against Kate, Donald and Denise. However, the judge found "the Division ha[d] sustained its burden with respect to . . . [Linda and Larry]." (Emphasis added). Noting Larry Jr. suffered all of these "non-accidental" injuries within a short period, the judge found "the Division ha[d] proven its case" that Linda and Larry "were two caretakers who were left alone with this child or left to care for this child when these injuries occurred." The judge entered the order under review confirming those findings.

II.

"In general, 'Title 9 controls the adjudication of abuse and neglect cases.'" N.J. Div. of Child Prot. & Permanency v. E.D.-O., 223 N.J. 166, 177 (2015) (quoting N.J. Div. of Youth & Family Servs. v. M.C. III, 201 N.J. 328, 343 (2010)). Title Nine defines an "abused or neglected child" as one under the age of 18 whose

> physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired as the result of the failure of his parent or guardian . . . to exercise a minimum degree of care . . . in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or substantial risk thereof,

> including the infliction of excessive corporal punishment . . . .
>
> [N.J.S.A. 9:6-8.21(c)(4)(b).]

In these matters, our standard of review is "strictly limited." N.J. Div. of Youth & Family Servs. v. I.H.C., 415 N.J. Super. 551, 577 (App. Div. 2010). "[A]ppellate courts 'defer to the factual findings of the trial court because it has 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.'" M.C. III, supra, 201 N.J. at 342-43 (quoting N.J. Div. of Youth & Family Servs. v. E.P., 196 N.J. 88, 104 (2008)). Moreover, "[b]ecause of the family courts' special jurisdiction and expertise in family matters, appellate courts should accord deference to family court factfinding." Cesare v. Cesare, 154 N.J. 394, 413 (1998). We owe no deference, however, to the judge's legal conclusions. N.J. Div. of Youth & Family Servs. v. I.S., 202 N.J. 145, 183 (2010).

"It is difficult to marshal direct evidence of parental abuse and neglect because of the closed environment in which the abuse most often occurs and the limited ability of the abused child to inculpate the abuser." N.J. Div. of Youth & Family Servs. v. S.S., 275 N.J. Super. 173, 179 (App. Div. 1994). As a result, Title Nine provides:

> [P]roof of injuries sustained by a child or of the condition of a child of such a nature as would ordinarily not be sustained or exist except by reason of the acts or omissions of the parent or guardian shall be prima facie evidence that a child of, or who is the responsibility of such person is an abused or neglected child.
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> [N.J.S.A. 9:6-8.46(a)(2).]

"D.T. created a paradigm to be applied when '[t]he state of the proofs [makes] it difficult to establish by a preponderance of the evidence which of the finite group of possible abusers committed the acts of abuse.'" N.J. Div. of Child Prot. & Permanency v. K.F., 444 N.J. Super. 191, 201 (App. Div. 2016) (alteration in original) (quoting D.T., supra, 229 N.J. Super. at 515)).

In D.T., supra, 229 N.J. Super. at 512, the evidence clearly established that the four-month-old child was sexually assaulted most likely during the twenty-four hours before examination by a doctor. At various times during that period, she was in the care and custody of her two parents; her great aunt, great uncle, and two cousins; or a family friend, the friend's husband and their two grandchildren. Id. at 511-12. In reversing the trial court's dismissal of the Division's complaint, the majority of the panel analogized the circumstances to those presented in Anderson v. Somberg, 67 N.J. 291, 298-99, cert. denied, 423 U.S. 929, 96 S. Ct. 279, 46 L. Ed. 2d 258 (1975), and held where

> a limited number of persons, each having access or custody of a baby during the time frame when a sexual abuse concededly occurred, no one else having such contact and the baby being then and now helpless to identify her abuser, . . . [t]he burden would then be shifted, and such defendants would be required to come forward and give their evidence to establish non-culpability.
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> [D.T., supra, 229 N.J. Super. at 517 (emphasis added).]

Twenty years later, we took a step back from D.T. in Division of Youth & Family Services v. J.L., 400 N.J. Super. 454, 457-59 (App. Div. 2008), a case in which the three-and-one-half-month-old child suffered multiple fractures on different occasions. In J.L., the defendants offered that persons other than the parents had access to the child and substantial medical evidence. Id. at 457-59, 464-66. The trial judge credited the defense expert's opinions that the child's pre-existing medical conditions increased the likelihood of fractures. Id. at 464-67. Although the judge indicated at the conclusion of the Division's case that the burden of proof had shifted to the defendant-parents pursuant to D.T., she "allowed the burden of proof to remain on the Division and concluded that the Division did not prove by a preponderance of the evidence that either parent abused [the child]." Id. at 466.

We noted that "[h]ere, unlike in D.T., the circumstances do not fit the Anderson v. Somberg burden-shifting paradigm." Id. at 469. Instead,

> [i]n a case such as this, where the child is exposed to a number of unidentified individuals over a period of time, and it is unclear as to exactly where and when the child's injuries took place, traditional res ipsa loquitur principles apply. This means that once the Division establishes a prima facie case of abuse or neglect under N.J.S.A. 9:6-8.46a(2), the burden will shift to the parents to come forward with evidence to rebut the presumption of abuse or neglect. Unlike the rule set forth in D.T., the burden of proof will not shift to the parents to prove their non-culpability by a preponderance of the evidence. The burden of proof will remain on the Division.
>
> [Id. at 470 (emphasis added).]

We affirmed, concluding the judge's factual findings were well supported by the record, and the defendants successfully overcame the presumption under N.J.S.A. 9:6-8.46(a)(2). Id. at 473.

In this case, Larry argues the judge erroneously shifted the burden of proof under D.T. because numerous people had access to Larry Jr. and the evidence failed to identify with any precision when the injuries occurred. However, Larry concedes that, as in J.L., traditional notions of res ipsa loquitur would then apply to the facts of this case.

We agree that the burden shifting, or "conditional" res ipsa loquitur approach, utilized by D.T. does not apply to this case. Larry Jr.'s injuries occurred over the course of his short lifetime, and Dr. McCans could not opine as to when they were inflicted. However, as in J.L., traditional notions of res ipsa loquitur applied here.

Although the judge in this case stated she was shifting the burden of proof under D.T., like the trial judge in J.L. she actually reviewed the evidence as to each of the five defendants and considered whether the Division had met its burden of proof as to each one. In other words, the judge did not decide the case based upon whether the defendants had "come forward and giv[en] their evidence to establish non-culpability." D.T., supra, 229 N.J. Super. at 517 (emphasis added) (citing Anderson, supra, 67 N.J. at 298-99). As a result, we find no legal error requiring reversal.

Larry further argues the evidence was insufficient to establish he abused Larry Jr., but we disagree. The judge found that on the few occasions that Kate left Larry Jr. alone, it was with Larry or Linda. She credited Donald's testimony about the one occasion where the child was alone with Larry behind a closed bedroom door, and Donald and Linda heard a strange cry from Larry Jr., followed by several minutes of crying. Additionally, Larry

admitted to being the one who bathed Larry Jr. every other day, and, while he offered two rationales for how the fractures might have occurred, Dr. McCans rejected both as likely causes.

In short, we accord deference to the trial judge's findings, including her express credibility determinations regarding the testimony of Dr. McCans, Kate and Donald. See E.P., supra, 196 N.J. at 104. We therefore affirm.

As to A-4950-14; A-4951-14;A-4952-14; and 4953-14

I.

Lucy was born to Tori and Larry in August 2013. The child lived with Tori; Teresa; Teresa's two children, ages seventeen and thirteen; and Emily, in Emily's home. Larry was living at the time with his mother and uncle.

On November 15, 2013, Larry and Tori brought Lucy to the emergency room because of redness, swelling and a possible cut on the child's tongue. Tori left to go to work, but Larry stayed while Dr. McCans examined Lucy. The doctor noted a marked decrease in Lucy's weight since she was last seen less than one month earlier. A skeletal survey and CT scan revealed Lucy had suffered numerous bilateral fractures to her ribs and clavicles at various stages of healing, injuries which Dr. McCans believed were the result of physical abuse.

Division caseworkers interviewed all four defendants. In addition, detectives from the Camden County Prosecutor's Office opened a parallel criminal investigation into Lucy's suspected abuse and questioned Tori and Larry. Larry explained to investigators that Tori was primarily responsible for the child's care, and that either he or Emily would watch her while Tori was at work, though he had been caring for Lucy more often recently, since he lost his job. Larry visited Lucy every day, usually arriving in the morning, taking her with him to his uncle's house and then bringing her home at night. Larry denied causing any of Lucy's injuries and implied one of Teresa's children or Emily may have caused them.

Tori told caseworkers she was unaware of what could have caused Lucy's fractures. She claimed Larry only visited the child at Emily's house "once in a blue," because Emily did not like him, and Larry had not seen Lucy for about a week prior to her admission to the hospital. Emily usually watched the baby when Tori was at work.

At the outset of the criminal interview, detectives advised Tori of her Miranda[4] rights, which she waived before questioning began. She initially denied any knowledge of how the fractures

[4] Miranda v. Arizona, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966).

occurred. However, after being repeatedly pressed by detectives, who also offered help for the family, Tori said she may have caused the fractures accidentally "by holding [Lucy] too tight."

When interviewed by caseworkers, Emily corroborated that she usually watched Lucy and stated she had no concerns with Tori's parenting abilities. Emily said Larry was not allowed at her house. Teresa likewise confirmed that Larry did not visit every day, as he claimed, noting she had recently asked him, at Emily's request, to restrict his visits only to certain hours in the afternoon. Lucy had never stayed overnight with Larry outside the home. Neither Emily nor Teresa knew how the child's injuries had occurred.

At the fact-finding hearing, Dr. McCans was the only witness called by the Division. She described Lucy's appearance on examination as "small and thin" and recalled observing swelling and ulceration under her tongue, likely the result of blunt force trauma. The decrease in the child's weight since her prior check-up caused Dr. McCans to consider the possibility of nutritional neglect.

Dr. McCans concluded, based on the different stages of healing, that the fractures had occurred over time rather than in a single event. However, she could not "pinpoint" precisely when any of them had occurred, explaining that a young infant's

relatively rapid rate of healing precluded reaching such a determination with sufficient accuracy. Dr. McCans concluded, based on the number of injuries, Lucy's age, and lack of other explanation, that the child's injuries were "diagnostic of non-accidental trauma or child physical abuse."

At the close of Dr. McCans's testimony, the Division asked the judge to shift the burden of proof to defendants under our holding in D.T. Defendants objected, arguing other individuals not named in the complaint had access to Lucy. Additionally, Larry's counsel specifically argued D.T. was inapposite and the facts in this case were more similar to the facts in J.L.

The judge agreed with the Division that the burden of proof should shift to defendants under D.T. She distinguished J.L., noting there was no evidence that Lucy was restrained excessively during the diagnostic procedures, nor was there any evidence that, like the child in J.L., Lucy suffered from a pre-existing condition making her more susceptible to fracture.[5]

After the judge had conducted an in camera review of Dr. McCans' expert report regarding Larry Jr.'s injuries, and over Larry's objection, she ruled that a redacted portion of the report could be introduced. Emily then recalled Dr. McCans as a witness,

[5] At the time, Kate was a defendant in the case. The judge granted Kate's motion and dismissed the complaint as to her.

and she described the multiple fractures Larry Jr. suffered and her opinion that they were the result of physical abuse.

Teresa testified that she did not cause Lucy's injuries and she had no idea how they occurred. Teresa noted her contact with the child was limited, since she was in school, also worked and frequently did not come home until late at night. Teresa claimed that Emily or Larry watched the baby while Tori was at work.

At the conclusion of the hearing, in an oral opinion, the judge found Dr. McCans to be a credible witness and accepted the doctor's opinions that Lucy's injuries were not caused accidentally. The judge concluded all four defendants had been Lucy's caretakers.

The judge also determined that none of the defendants had carried his or her burden of proof and demonstrated he or she was not culpable. She noted Tori offered no evidence and her statement to detectives failed to exonerate her. The judge also stated Larry failed to present any evidence regarding his non-culpability. The judge found Teresa was not a credible witness and failed to present any other evidence exonerating herself. As to Emily, the judge acknowledged Dr. McCans' testimony and report regarding the physical abuse of Larry Jr., but she concluded Emily had "not sustained her burden and set forth any proof that she is not a culpable defendant." The judge entered a conforming order.

II.

As noted, all four defendants contend the judge erred in shifting the burden of proof to each of them under our holding in D.T. Defendants argue other people, for example Teresa's children, also had access to Lucy, and Dr. McCans could not identify with precision when the abuse occurred. Larry specifically argues that, similar to the factual circumstances of J.L., traditional notions of res ipsa loquitur should have applied, and the burden of proof should never have shifted to defendants. We agree.

As we cautioned in D.T., supra, 229 N.J. Super. at 517 (emphasis added), the burden of proof is shifted to defendants in a Title Nine action in very limited circumstances, i.e., when "a limited number of persons[] each ha[d] access or custody of a baby during the time frame when . . . abuse concededly occurred, no one else ha[d] such contact[,] and the baby [was and remains] helpless to identify [its] abuser." Here, unlike D.T. where the sexual abuse of the child occurred within a 24-hour period, Dr. McCans could only opine that Lucy suffered multiple injuries over her three-month lifespan. The circumstances here were more like those in J.L.

The judge explicitly rejected J.L.'s application, finding that unlike the facts in that case, Lucy had no pre-existing medical condition that made her susceptible to fractures and there

was no evidence the child was restrained during the diagnostic procedures. However, those facts, while present in J.L., were not determinative. Rather, we concluded the principles of traditional res ipsa loquitur apply "where the child is exposed to a number of unidentified individuals over a period of time, and it is unclear as to exactly where and when the child's injuries took place." J.L., supra, 400 N.J. Super. at 470. This was such a case.

We therefore reverse the order under review and remand the matter to the trial court for consideration of the evidence under the appropriate standard. Because the parties relied upon the judge's interlocutory decision during the fact-finding hearing, and because we have now clarified what standard should apply in this case, we leave to the trial judge's discretion whether the Division and defendants may introduce additional evidence.

III.

We briefly comment on two issues to provide guidance on remand.

Tori contends the judge erred by admitting in evidence the statement she gave to law enforcement. She contends that the failure to allow her an opportunity to retain counsel in the Title Nine matter prior to being questioned in the criminal matter

deprived her of due process, and her apparent waiver of the right to counsel at her interview was neither knowing nor voluntary.

Tori never raised these issues before the trial judge and we refuse to consider them now. State v. Robinson, 200 N.J. 1, 20 (2009). We express no opinion about the merits of these arguments if raised on remand.

Lastly, Larry argues the judge erred in admitting Dr. McCans' testimony and redacted report regarding her findings of the physical abuse of Larry Jr. He argues the judge should have analyzed the evidence under N.J.R.E. 404(b) and, applying that reasoning, the evidence should have been excluded because "its probative value [was] substantially outweighed by the risk of . . . undue prejudice . . . ." N.J.R.E. 403(a). We note that the judge never considered the evidence of Larry Jr.'s abuse as evidence of Larry's culpability in this case; she only considered and rejected the evidence as exculpating Emily.

Title Nine explicitly states that "[i]n any hearing under this act, . . . proof of the abuse or neglect of one child shall be admissible evidence on the issue of the abuse or neglect of any other child of, or the responsibility of, the parent or guardian." N.J.S.A. 9:6-8.46(a)(1). In I.H.C., supra, 415 N.J. Super. at 573, we "h[eld] that in civil proceedings for the protection of a child, a parent or guardian's past conduct can be relevant and

admissible in determining risk of harm to the child." Citing N.J.S.A. 9:6-8.46(a)(1) we said, "the statute itself provides for admissibility of evidence about other children." Ibid. We held "that where expert testimony in an abuse or neglect case provided support for a finding that [the] defendant's prior acts of domestic violence show his disposition to commit such violence, the court should have admitted that evidence in assessing risk of harm to the children." Id. at 576.

However, we hastened to add "[o]ur conclusion does not mean that N.J.R.E. 404(b) should never be applied in abuse or neglect cases to determine admissibility of other crimes or bad acts evidence." Id. at 576 (citing N.J. Div. of Youth and Family Servs. v. H.B., 375 N.J. Super. 148, 181 (App. Div. 2005)). In H.B., we implicitly approved application of N.J.R.E. 404(b) to consider whether the defendant's conviction for sexual abuse of a child twelve years earlier would be relevant in the current Title Nine litigation, in which the defendant was accused of sexually abusing his stepdaughter. H.B., supra, 375 N.J. Super. at 176, 180-81.

In a case such as this, where the evidence of Larry Jr.'s abuse was potentially relevant to prove the "identity" of Lucy's abuser, or perhaps the "absence of mistake or accident" as a cause of her injuries, N.J.R.E. 404(b), the judge should analyze the evidence under the "standards for admissibility articulated by our

Supreme Court in State v. Cofield, 127 N.J. 328, 338 (1992)." H.B., supra, 375 N.J. Super. at 181 (citation modified).

In sum, we affirm the order in A-4814-14. In A-4950-14, A-4951-14, A-4952-14 and A-4953-14, we reverse and remand for further proceedings consistent with this opinion. We do not retain jurisdiction.