SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-5099-15T3
A-5390-15T3

NEW JERSEY DIVISION OF CHILD PROTECTION AND PERMANENCY,

Plaintiff-Respondent,

v.

L.T. and J.L.-G.

Defendants-Appellants.

IN THE MATTER OF THE GUARDIANSHIP OF C.I.T., J.D.T., and K.M.T.,

Minors.

Submitted May 10, 2017 – Decided June 22, 2017

Before Judges Lihotz, Hoffman and Whipple.

On appeal from Superior Court of New Jersey, Chancery Division, Family Part, Middlesex County, Docket No. FG-12-79-16.

Joseph E. Krakora, Public Defender, attorney for appellant L.T. (Marc D. Pereira, Designated Counsel, on the brief).

Joseph E. Krakora, Public Defender, attorney for appellant J.L.-G. (James D. O'Kelly, Designated Counsel, on the brief).

Christopher S. Porrino, Attorney General, attorney for respondent (Melissa Dutton Schaffer, Assistant Attorney General, of counsel; Kimberly Ann Eaton, Deputy Attorney General, on the brief).

Joseph E. Krakora, Public Defender, Law Guardian, attorney for minors (Rachel E. Seidman, Assistant Deputy Public Defender, on the brief).

PER CURIAM

Defendants, L.T. (Laura) and J.L.-G. (John) appeal from a July 8, 2016 judgment of guardianship terminating their parental rights.[1] We affirm.

Laura is the biological mother of Caryn, Josh, and Kristy. John is the biological father of Kristy;[2] Laura and John have been together for more than ten years. Laura has a tenth grade education, and suffers from some cognitive limitations. John was born in Honduras and immigrated to the United States in 1985.

In 2010, the Division of Child Protection and Permanency (Division) received a referral because Josh was psychiatrically hospitalized for the second time for behavioral issues. On

[1] We use pseudonyms to protect the identity of the parties and their children.

[2] The fathers of Caryn and Josh have not been identified and are not parties to this appeal.

September 20, 2013, a neighbor reported the family to the Division. The neighbor was afraid for the children who appeared dirty and hungry, and who feared Laura and John because they hit them. The neighbor also reported bed bugs in the home. The neighbor reported Caryn complained John was looking at her chest, which made her uncomfortable, and Caryn kept a journal documenting her fear of Laura and John.

When the Division caseworker arrived to investigate, the caseworker noted Josh had bruises and small circular marks on his legs, which Josh said resulted because he often falls. Josh reported John hits him with his hand and pulls his hair out. Josh reported John makes him sit in "time out" for four hours, and John curses and makes his mother cry. During the caseworker's interview with Caryn, she reported John "always yells at us" and makes her cry and feel scared and nervous. Caryn reported John makes her uncomfortable when he talks about how Caryn is "developing." Caryn admitted she kept a journal but gave it to the neighbor. Caryn also reported John hit Kristy and pulled out Josh's hair. Kristy reported John hit her on the arm.

On September 26, 2013, Laura met privately with the Division's domestic violence liaison. Laura complained John listens to her phone calls, does not provide her enough money to pay the bills, threatens her, and threatens to take Kristy to Honduras.

On September 30, Laura called the Division because Josh kicked Caryn and might have broken her finger. The Division helped Laura access services for Josh. On October 2, 2013, Margaret DeLong, Psy.D., conducted a psychological evaluation of Josh and recommended he participate in individual counseling and have no further contact with John.

On October 8, 2013, the landlord locked the family out of their apartment and they had nowhere to go. When the Division caseworker went to the family home, she found the family in their car. The Division conducted an emergency removal and placed the children with the maternal grandparents.

On October 11, 2013, the court placed the children in the custody, care, and supervision of the Division. The court ordered Laura to submit to a neuropsychological evaluation, parenting classes, multicultural services, and family counseling. The court also ordered psychological evaluations for Caryn and Kristy; individual counseling and assignment of a mentor for Josh; and ordered John to attend a psychological evaluation, counseling at the Batters Intervention Program, and parenting classes.

Dr. DeLong evaluated Kristy and Caryn on October 23, 2013. Caryn told Dr. DeLong she was "happy" to be away from John because she "no longer ha[s] to suffer and see hitting and arguments." She disclosed John used to rub her back and massage her and would

try to touch her stomach but it made her uncomfortable. Caryn reported she was comfortable seeing her mother about once a week. When asked why only once a week, Caryn responded, "Any time she would come to see me, she would always have a problem with things." Dr. DeLong recommended Caryn participate in individual counseling, recreational and therapeutic activities with peers, participate in a mentoring program, and have supervised therapeutic visits with her mother. She recommended Caryn have no further contact with John.

Kristy told Dr. DeLong John hit her in the head, hits her brother, and yells and curses at her siblings and mother. Kristy reported she wants to live with her grandmother, but still wished to visit John and Laura. Dr. DeLong recommended Kristy participate in individual play therapy, recreational and/or therapeutic activities with peers, a mentoring program, and have therapeutic supervised visits with John and Laura.

John had supervised visitation with Kristy, but was denied visits with the other children. Laura had weekly visits with all three children.

In November 2013, Jonathan H. Mack, Psy.D., conducted a neuropsychological and psychological evaluation of Laura. Dr. Mack opined Laura "presents as having moderate neurocognitive dysfunction with significant underlying brain damage." Dr. Mack

diagnosed Laura with a mild intellectual disability, major neurocognitive disorder due to multiple etiologies, and personality change and/or development variant due to brain injury/damage. Dr. Mack found Laura incapable of being a minimally effective parent and to be effective, she would need to separate from John and would need massive support. Dr. Mack recommended ongoing psychiatric evaluations and treatment, psychological therapy with a neuropsychologist, anger management and parenting classes, and "in-home, ongoing and frequent parental supervision."

Around this time, Josh underwent a psychiatric evaluation with Vivian Shnaidman, M.D. He told Dr. Shnaidman "all the problems started" when John moved in with the family. Josh reported he wants to live with his mother, "but . . . can't because of [John]." Additionally, Josh reported John blames the children for not being able to keep a job because "the kids annoy him and he has to go to the kids' school." Dr. Shnaidman opined Josh was "extremely hyperactive but not inattentive," and with "appropriate treatment, including psychotherapy and possibly medication," Josh's prognosis was good. Dr. Shnaidman recommended Josh see a board-certified child psychiatrist on a regular basis.

John underwent a psychological evaluation by Helen Raytek, Psy.D., on December 2, 2013. Dr. Raytek recommended Laura and John attend parenting skills training and family therapy, and the

Division should not return the children to Laura and John's care "unless they make significant progress in parent-training and family therapy." Dr. Raytek recommended any steps toward reunification must be slow and gradual.

Laura and John did not have a place to live and in January 2014, were still sleeping in their truck. On January 30, 2014, John and Laura were finally placed in a shelter, but in May 2014, Laura's application for housing through Middlesex Board of Social Services was denied because John failed to complete WorkFirst. On May 28, 2014, Laura told the caseworker she and John were homeless again. The Division learned John's residency card would expire on August 31, 2014, and John would not qualify to renew his visa because of his arrest history. Laura and John's participation in Division services deteriorated because of their homelessness.

John and Laura missed the January 23 and 30, 2014 visits. John missed two batterer's counseling sessions. Catholic Charities contacted the Division on February 6, 2014, reporting John and Laura were on the wait list for supervised visitations. Around this time, John obtained employment but eventually quit while Laura continued to be unemployed.

The Title Nine fact-finding hearing took place on February 26, March 21, and May 2, 2014. The court found John failed "to exercise a minimum degree of care and supervision by allowing the

children to witness acts of domestic violence, berating the children, [and] using excessive means of punishment on the children." Laura was found to not have abused or neglected the children. The court ordered the matter to remain open as a Title 30 matter in order for the Division to provide services to the children and Laura.

On October 22, 2014, the court entered a permanency order finding Laura and John had not complied or completed the court ordered services and approved the placement of the children with the grandmother under a plan of kinship legal guardianship. However, on April 1, 2015, the children were removed from the grandmother's home because the grandmother did not report Caryn was cutting herself and did not disclose there were other individuals residing in her home, among other concerns. The children were subsequently placed in a resource home.

Laura and John missed scheduled visits in April and May 2015, and cancelled their family counseling appointment. On May 21, 2015, Mark Mina, a Clinical Social Worker supervising the family's counseling, wrote to the Division about the family's progress. Mina reported Laura's insight and judgment as a parent were impaired based upon her repeated requests to have the children back despite being homeless and unemployed. Mina noted the children appeared emotionally distant from their mother, and did

not express any signs of excitement or happiness when they greet her. Mina opined John needed to learn how to control his anger and improve his communication skills. He found "the parents' ability to care for their children is questionable."

In June 2015, the Division mailed rule out letters to three maternal aunts. Laura informed the caseworker she and John were still living out of their car.

Bonding evaluations of Laura and the three children were conducted by Karen D. Wells, Psy.D., on June 30, 2015. Dr. Wells reported it was clear to the children Laura had "substantially failed to provide them with a safe environment and has not prioritize[d] their well-being above her desire to remain in a relationship that is recognized by them as abusive and dysfunctional." Laura told Dr. Wells the children would be coming back to her because she refused to sign anything relinquishing her parental rights. Dr. Wells considered Caryn more cognitively advanced than Laura and testified "the children seem to recognize that [Laura] values the maintenance of her relationship with [John] above all, including them being remitted in her care."

Dr. Wells found "little to no indication that a parent-child bond exists between the children" and Laura. She found the children did not view her as their primary psychological parent, and concluded Laura is "unable to independently parent, as she

requires guidance to attend to her own needs, lacks the capacity for good reasoning and solid judgment, and is limited in her capacity to appreciate the impact of her behaviors and choices to herself and her children." As such, Dr. Wells recommended the Division pursue permanency for the children independent of Laura. Dr. Wells found the children would not suffer irreparable and enduring psychological harm if not reunified with their mother.

Dr. Wells also conducted a bonding evaluation between John and Kristy. While noting Kristy feels comfortable with John, Dr. Wells found no secure bond as Kristy "knows that he is not her primary custodial caregiver and has not attended to her basic physical needs for close to two years." Kristy has a psychological and emotional bond to John, but that bond was fluid and there was no indication Kristy becomes distressed when separated from him. Dr. Wells opined John "lack[s] an understanding and appreciation of a child's development, with little leniency granted when a child does not comply consistent with his expectations." Dr. Wells concluded Kristy needed permanency independent of John and placement with her maternal siblings was critical.

On August 25, 2015, Mina reported to the Division that Kristy's emotional attachment towards John was improving through participation in family counseling. Mina stated John was gaining more control over his anger, but additional improvement was

necessary. Mina noted Laura was still having trouble engaging with the children, though she was more relaxed and willing to communicate. He noted, however, the children expressed no signs of excitement or happiness when they see their mother.

On August 31, 2015, the court approved the Division's permanency plan for termination of parental rights followed by adoption. On September 18, 2015, the children were placed in a new resource home, where they remain. On December 16, 2015, the Division filed a complaint for guardianship.

Dr. Wells conducted updated bonding evaluations on May 10, 2016, between the children and Laura, wherein each child expressed an interest in being adopted by the resource parents. Dr. Wells opined the children lack a significant bond with Laura and despite the weekly contact, the bond had not improved. She found the children did not relate to Laura as a maternal figure and do not "initiate communication with her, seek her attention, approval or comfort." Dr. Wells concluded none of the children would "experience irreparable and enduring psychological harm" were all contact with Laura permanently severed.

Dr. Wells thought the child-parent bond between the children and the resource parents was "remarkable" after only nine months of the children living with them and noted "[t]here is no question that [the children] find their relationships to be highly valued

and important." Dr. Wells concluded if the relationship between the resource parents and the children were terminated, they would experience "grave and severe enduring and irreparable psychological and emotional harm."

Dr. Wells concluded Laura's "ability to function in an adult-like manner is extremely deficient" and "any child placed in her care would be susceptible to risk of harm, with such likelihood increasing when stress is present." Because of Laura's cognitive deficiencies and submissive behaviors, Dr. Wells found "[t]here are no indications that [Laura] presently or will in the foreseeable future, be able to provide even minimal parental care" to her children. She concluded reuniting the children with Laura would pose emotional and psychological harm.

Dr. Wells also conducted an updated bonding evaluation of John and Kristy. Dr. Wells noted during their interaction, Kristy did not seem interested in engaging with John. Dr. Wells opined the parental relationship between John and Kristy is beginning to wane since the first bonding evaluation nine months prior. Dr. Wells found there to be no indication Kristy wants to be reunited with John and has expressed her interest in being adopted by the resource parents. According to Dr. Wells, John has not demonstrated any progress to stabilize his life, despite the services and support offered to him. Therefore, Dr. Wells

concluded John "cannot provide adequate and appropriate parental care and responsibility for" Kristy.

The guardianship trial occurred on June 14, and 15, 2016. Two division caseworkers, Monica Gordon and Natasha Freeman, as well as Dr. Wells, testified on behalf of the Division. John testified on his own behalf, but no other party presented additional evidence or witnesses. Gordon described the list of services the Division provided Laura and John, including, domestic violence counseling, referrals to the Batterer's Intervention program, and parenting classes.

Freeman was the adoption caseworker since October 2015. She testified Laura and John were still living in their car, John was supposed to provide her paystubs from his employer to prove his employment, and she did not believe Laura was working. Freeman testified about the children's frustration with having visitation and their desire to no longer have visits. As to her observations of supervised visitations, she expressed while there had been some positive interactions, both Laura and John did not seem engaged in their visits. As for the services the Division provided, Freeman testified Laura made some progress in the individual neuropsychological counseling but was unable to apply what she learned to real life scenarios and only secured a minimal benefit.

Dr. Wells, who the judge found credible, testified both Laura and John "lacked the capacity to be able to effectively parent." Specifically, Dr. Wells testified that even if Laura and John were able to find somewhere to live with the children, the concern is "about their functioning and their capacity to meet the demands . . . [of] parenting day to day." Noting a bond between Kristy and John remained "intact," Dr. Wells testified the bond was waning and even if their relationship were somehow able to improve, Kristy would be negatively affected by her separation from her siblings and her resource parents. In contrast to the children's bond with John and Laura, the bond between the children and the resource parents was "intact and secure."

John testified the Division never assisted them in securing housing, despite being court ordered to do so. John stated he has two different employment opportunities in both New Jersey and Pennsylvania and each employer would allow him to rent an apartment, as he would either be doing mechanic work for the one and maintenance work for the other. When questioned in court, John could not provide any specific information about either job.

Because the judge found the Division had established all four prongs by clear and convincing evidence, the court ordered the

termination of Laura and John's parental rights. A judgment of guardianship was entered on July 8, 2016. These appeals followed.[3]

Our review of a trial judge's findings and decision to terminate parental rights is limited. N.J. Div. of Youth & Family Servs. v. M.M., 189 N.J. 261, 278-79 (2007). We will not reverse the family court's termination decision "when there is substantial credible evidence in the record to support the court's findings." N.J. Div. of Youth & Family Servs. v. E.P., 196 N.J. 88, 104 (2008).

We defer to the trial court's credibility findings and fact-findings because of its expertise in family matters and its ability to develop a "feel of the case that can never be realized by review of the cold record." N.J. Div. of Youth & Family Servs. v. M.C. III, 201 N.J. 328, 342-43 (2010) (citation omitted). We will not disturb these findings unless they are "so wide of the mark that the judge was clearly mistaken." N.J. Div. of Youth & Family Servs. v. G.L., 191 N.J. 596, 605 (2007).

Parents have a constitutionally protected right to raise their biological children, even if placed in foster care. In re Guardianship of J.C., 129 N.J. 1, 9-10 (1992) (citing Santosky v. Kramer, 455 U.S. 745, 102 S. Ct. 1388, 71 L. Ed. 2d 599 (1982)).

[3] On August 19, 2016, we entered an order consolidating both appeals.

The State may act to protect the welfare of the children, but this is a limited authority, applying to circumstances where the parent is unfit or the child has been harmed. Id. at 10; N.J.S.A. 30:4C-12. To prevail in a proceeding to terminate parental rights, the Division must establish each element of the "best interests test":

> (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. Such harm may include evidence that separating the child from his resource family parents would cause serious and enduring emotional or psychological harm to the child;
>
> (3) The division 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).]

These four prongs "relate to and overlap with one another to provide a comprehensive standard that identifies a child's best interests." In re Guardianship of K.H.O., 161 N.J. 352, 348 (1999). The State must prove each prong of this test by clear and convincing evidence. N.J. Div. of Youth & Family Servs. v. A.W.,

103 N.J. 591, 612 (1986). Courts may not use presumptions of parental unfitness and any "doubts must be resolved against termination of parental rights." K.H.O., supra, 161 N.J. at 347.

I.

Laura and John argue the Division did not establish by clear and convincing evidence the children's health, safety, and development was and continued to be endangered by the parental relationship. We disagree.

The first prong of the best interests test requires the Division to prove the child's safety, health, or development has been or will continue to be endangered by the parental relationship. N.J.S.A. 30:4C-15.1(a)(1). The focus of the first prong is not necessarily upon a single incident, but on "the effect of harms arising from the parent-child relationship over time on the child's health and development." K.H.O., supra, 161 N.J. at 348. Additionally, the harm to the child need not be physical, but can also include "[s]erious and lasting emotional or psychological harm . . . as the result of the action or inaction of their biological parents." In re Guardianship of K.L.F., 129 N.J. 32, 44 (1992) (citing In re Guardianship of J.C., 129 N.J. 1, 18 (1992)).

The inability of parents to provide day-to-day nurturing for their child for a prolonged period of time is a harm which may

satisfy the first prong of the best interests test. K.H.O., supra, 161 N.J. at 356 (citing A.W., supra, 103 N.J. at 604-611). We have said, "When the condition or behavior of a parent causes a risk of harm, such as impermanence of the child's home and living conditions, and the parent is unwilling or incapable of obtaining appropriate treatment for that condition, the first subpart of the statute has been proven." N.J. Div. of Youth & Family Servs. v. H.R., 431 N.J. Super. 212, 223 (App. Div. 2013). Additional considerations include whether "the delay in securing permanency continues or adds to the child's harm." K.H.O., supra, 161 N.J. at 348-49 (citing N.J.S.A. 30:4C-15.1(a)(2)).

There is clear and convincing evidence in the record to support finding Laura has been and continues to be unwilling to eliminate the harm facing her children. The children were removed from her care after reports of physical and emotional abuse by John and reports the family was living in their car. She refused to separate herself from John and did not show a willingness to resolve the negative impact John has on the children's lives, despite assuring the Division of her intentions to leave him at the beginning of the investigation. The record establishes the children were disinterested in their visits and Laura's cognitive deficits hindered her ability to provide for the children's basic needs. Despite the services provided by the Division, Laura

remains unemployed and the record establishes she has not benefitted from those services. Laura's reliance on John and her unwillingness to obtain employment has and will continue to place the children at risk of harm.

The Division also provided John with numerous services with little effect. Dr. Wells found John blamed others for his own problems and "lacked insight into his own behaviors." John was found to have been abusive to all three children, but blamed Josh for the Division being involved in their lives. All three children reported John's verbal and physical abuse inside the home. The evidence in the record clearly and convincingly establishes prong one as to John.

Both John and Laura, over a three-year period, failed to remediate their homelessness and unemployment. Despite the services and assistance of the Division, Laura and John have continued to place the children at risk of harm. We are therefore satisfied the court correctly concluded the Division established prong one by clear and convincing evidence.

II.

Laura and John argue the Division failed to establish prong two as they both actively engaged in Division services. We reject their premise.

The second prong of the best interests test considers whether "[t]he 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." N.J.S.A. 30:4C-15.1(a)(2). This inquiry looks not only to whether a parent is fit, but also to whether he or she can become fit within time to perform parental functions. J.C., supra, 129 N.J. at 10. Notably, facts supporting the first prong of the best interests test also inform and may support the second prong "as part of the comprehensive basis for determining the best interests of the child." In re Guardianship of D.M.H., 161 N.J. 365, 379 (1999).

The statute directs "[s]uch harm may include evidence that separating the child from his resource family parents would cause serious and enduring emotional or psychological harm to the child[.]" N.J.S.A. 30:4C-15.1(a)(2). Our courts recognize "reunification becomes increasingly difficult with the passage of time because a child may develop bonds with his or her foster family and gain a sense of permanency." M.M., supra, 189 N.J. at 291. This is particularly true where biological parents are inattentive to their children, thereby encouraging them to bond with their foster families. K.H.O., supra, 161 N.J. at 352. Comparative evaluations of a child's relationship with her or his

foster parents and biological parents are generally necessary and relevant to a proper analysis of both the second and fourth prongs of the best interests test. N.J. Div. of Youth & Family Servs. v. A.R., 405 N.J. Super. 418, 440 (App. Div. 2009). The record is replete with efforts by the Division to assist both parents in resolving their parental deficits.

Laura argues the record does not support the finding she is cognitively deficient and cannot remediate the harm to her children. She argues she has completed the tenth grade, has one year left to complete her GED, has held employment in the past, and has been able to care for her children since their birth without incident. Laura states she completed all services and did everything she could to obtain housing and employment. Despite Laura's claims, the record supports a finding Laura has been unwilling or unable to remediate the harm the children faced. Laura was unwilling to look for employment, as she believed she would obtain disability benefits, despite job opportunities being available. Laura also could have obtained social services for housing, but her application was denied because she wanted to live with John, who failed to complete WorkFirst and whose visa was in the process of being renewed. Laura's housing situation could have been remediated if not for Laura's unwillingness to separate herself from John.

Most importantly, not only was Laura unwilling to separate herself from John in order to obtain housing, she was unwilling to end her relationship with John at the expense of her children. If the children were returned to her care, she would be unable to protect them from the harsh physical discipline John had previously inflicted. Despite knowing her children did not want to have contact with John, Laura continued the relationship.

John insisted his problems were caused by the children and then perpetuated by the Division. John argues he actively engaged in Division services and the Division did not demonstrate he had limited cognitive functioning. Dr. Wells testified John viewed others as the cause of his problems and therefore believed it was the responsibility of others to fix those problems. Dr. Wells opined John's cognitive functioning was low to below average and no additional services could be provided to John to improve his judgment.

Additionally, Dr. Wells testified Laura and John would be unable to help the children cope with the loss of the resource parents if the children were reunited with them. Dr. Wells testified if the children were removed from the resource parents, it would be "devastating" for the children. While a waning bond still existed between Kristy and John, all three children needed permanency and the record demonstrates that even with additional

services, Laura and John will not be able to remediate the harm to the children. There is more than enough evidence in the record to support a finding under prong two.

III.

Laura argues she was provided with "boilerplate" Division services, while John argues he was provided a case plan the Division knew would be unsuccessful; therefore, the Division failed to satisfy prong three. We disagree.

In order to satisfy the requirements of N.J.S.A. 30:4C-15.1(a)(3), the Division must prove that it has undertaken "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 considered alternatives to termination of parental rights." Reasonable efforts include helping the parent develop a plan for appropriate services; providing the agreed upon services in furtherance of family reunification; periodically informing the parent of the child's progress, development and health; and facilitating appropriate visitation. N.J.S.A. 30:4C-15.1(c).

What constitutes "reasonable efforts" depends on the circumstances of the removal. N.J. Div. of Youth & Family Servs. v. A.G., 344 N.J. Super. 418, 435 (App. Div. 2001), certif. denied, 171 N.J. 44 (2002). The failure or lack of success of such efforts

does not foreclose a finding that the Division met its statutory burden to try to reunify the child with the family. D.M.H., supra, 161 N.J. at 393. The Division need not continue services indefinitely; even with reasonable efforts, the Division may not be able to salvage a parental relationship. N.J. Div. of Youth & Family Servs. v. F.M., 211 N.J. 420, 452 (2012).

Laura argues the Division did not provide her with neuropsychological counseling until almost a year and a half after it was initially recommended. That is true, but Dr. Wells testified Laura would not have benefitted from such counselling because Laura's cognitive functioning was too limited.

Laura argues the Division focused solely on her cognitive limitations, ignoring the fact she completed all Division services and said she would move away from John. The Division provided Laura with psychological evaluations, psychiatric evaluations, parenting training, counseling and support services, family and individual counseling, domestic violence counseling, and neuropsychological counseling. The Division also provided transportation to the visitations, transportation to services, assisted with Division of Development Disabilities (DDD) and Division of Vocational Rehabilitation (DVR) applications, family team meetings and case planning, and coordinated with social

services agencies. The Division provided Laura and John with services over a three-year period that were beyond "boilerplate."

While Laura did participate in Division services, the record establishes Laura did not advance despite those services. She remained homeless and unemployed, and was no closer to providing her children with a safe and stable home than she was when the children were removed. Despite Laura's claims she was willing to move away from John, she continued to stay with him and wanted to bring John to visits with Caryn and Josh. The Division made reasonable efforts to provide Laura with services, ranging from domestic violence classes to assisting in filling out DDD applications, but ultimately, Laura was unwilling or unable to apply what she had learned in counseling to real life situations.

John argues the Division focused the case plan only as to Laura. John also argues the Division only assisted Laura with the DDD and DVR applications. John was not eligible for DDD benefits because he does not suffer from a mental disability, therefore the Division could not have assisted him in filling out the applications. In addition, John was not qualified for DVR benefits because he did not complete WorkFirst and his visa was about to expire. Therefore, the Division did not unfairly assist Laura over John; John was not eligible for the same services. Besides the assistance with the applications, John was provided with the

same services as Laura. Therefore, the Division made reasonable efforts in order to provide John with services.

The court considered alternatives to termination. The Division attempted to find the suspected fathers of Caryn and Josh, whose names were provided by Laura; however, the named fathers were ruled out by a paternity test. Additionally, the Division sent three rule out letters to three maternal aunts who could not take the three children. As for the maternal grandmother, the Division removed the children from her care after it was discovered she was allowing two adult men to live in her home and she did not report to the police a neighbor had inappropriately touched Caryn or that Caryn was self-harming. Despite Laura's arguments the Division should have provided the maternal grandmother with more services, the record supports a finding that the Division made reasonable efforts in seeking alternatives to termination of Laura and John's parental rights. As such, the Division established prong three by clear and convincing evidence.

IV.

Finally, we reject Laura and John's argument termination of parental rights will do more harm than good; therefore, the Division has not established prong four.

To satisfy the fourth prong, the Division must prove by clear and convincing evidence that "[t]ermination of parental rights will not do more harm than good." N.J.S.A. 30:4C-15.1(a)(4). The court must determine "whether a child's interest will be best served by completely terminating the child's relationship with that parent." E.P., supra, 196 N.J. at 108. "The crux of the fourth statutory subpart is the child's need for a permanent and stable home, along with a defined parent-child relationship." H.R., supra, 431 N.J. Super. at 226 (citation omitted). Where the child is living with foster parents, the court balances the relationship of the child with both the biological and foster parents. K.H.O., supra, 161 N.J. at 355. The question is not whether the child will suffer any harm; rather, the question is whether "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." Ibid. To answer that question requires expert inquiry as to the strength of each relationship. Ibid.

Dr. Wells' unrebutted opinion was the children do not view Laura as a maternal figure, lacked a significant bond with her, and the children did not seek her attention, approval or comfort. Moreover, the children all verbalized a wish to be adopted by their resource parents. Josh stated that he "never knew a mom and

dad until [he] knew [the resource parents]." Dr. Wells concluded there were "no indications that if all contact were to be permanently severed, would any of the children experience irreparable and enduring psychological harm."

Dr. Wells warned of harm that would occur to the children if they were removed from their resource parents. Dr. Wells stated the bond between the children and the resource parents after only nine months was "remarkable," especially noting the behavioral and emotional progress Josh has made since being in their care. Dr. Wells testified if Josh were removed from the resource parents, she feared his behavior would regress and he would begin to exhibit the same aggressive behavior he exhibited while living with John and Laura. Dr. Wells found the resource parents would be able to remedy any harm caused by the termination of Laura and John's parental rights and concluded if the children were removed from the resource parents they would experience "grave and severe enduring and irreparable psychological and emotional harm."

The bond between John and Kristy was thought to be waning and there was no indication Kristy wanted to be reunited with John, and she too expressed a significant interest in being adopted by the resource parents. Dr. Wells concluded John was unable to provide for Kristy's needs in the long term. Dr. Wells testified Kristy was relieved at the end of the evaluation because she

believed it was the last time she would have to see her biological parents. Therefore, if the bond between John and Kristy were to be severed it would not do more harm than good. Based on all of the evidence in the record, the trial court correctly found the Division satisfied its burden under prong four. We discern no reason to disturb that determination.

Affirmed.