

RECORD IMPOUNDED

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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-4273-16T3

NEW JERSEY DIVISION OF CHILD
PROTECTION AND PERMANENCY,

Plaintiff-Respondent,

v.

D.S.,

Defendant-Appellant,

and

M.F.,

Defendant.

IN THE MATTER OF THE GUARDIANSHIP
OF M.F.,

Minor.

Submitted January 11, 2018 – Decided January 23, 2018

Before Judges Haas, Rothstadt and Gooden
Brown.

On appeal from Superior Court of New Jersey,
Chancery Division, Family Part, Monmouth
County, Docket No. FG-13-0036-17.

Joseph E. Krakora, Public Defender, attorney for appellant (Beryl Foster-Andres, Designated Counsel, on the brief).

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

Joseph E. Krakora, Public Defender, Law Guardian, attorney for minor (Phyllis G. Warren, Designated Counsel, on the brief).

PER CURIAM

Defendant D.S.¹ appeals from the Family Part's May 4, 2017 judgment of guardianship terminating her parental rights to her daughter, M.F. (Mary), born in January 2014.² Defendant contends that the Division of Child Protection and Permanency (Division) failed to prove each prong of N.J.S.A. 30:4C-15(a)(1) by clear and convincing evidence. The Law Guardian supports the termination on appeal as it did before the trial court.

Based on our review of the record and applicable law, we are satisfied that the evidence in favor of the guardianship petition overwhelmingly supports the decision to terminate defendant's parental rights. Accordingly, we affirm substantially for the

¹ We refer to the adult parties by initials, and to the child by a fictitious name, to protect their privacy.

² The judgment also terminated the parental rights of the child's father, M.F., who has not filed an appeal from that determination.

reasons set forth in Judge Stephen Bernstein's comprehensive oral decision rendered on May 4, 2017.

We will not recite in detail the history of the Division's involvement with defendant. Instead, we incorporate by reference the factual findings and legal conclusions contained in Judge Bernstein's decision. We add only the following comments.

We are satisfied that commencing with the Division's first contact with defendant and Mary in June 2014, the Division provided multiple opportunities for her to reunify with her child and address her long-standing mental health issues. None of these interventions proved successful. Defendant visited Mary only sporadically after the Division assumed care and custody of the child, and defendant subsequently refused to participate in services, take her medication, or even keep in regular contact with the Division.

In December 2016, defendant abducted Mary from her caretaker after a physical "tugging match" that caused the child and the caretaker to fall to the floor. The police were able to locate the child two days later and returned her to the Division unharmed. Thereafter, defendant only attended a handful of Division-supervised visits with the child prior to the guardianship trial, and refused to undergo a psychological evaluation.

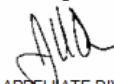
At the time of the trial, Mary had been living with her resource parents for only a few weeks, but they were interested in adopting her. Defendant did not appear at the trial and called no witnesses.

In his oral opinion, Judge Bernstein reviewed the evidence presented and thereafter concluded that (1) the Division had proven all four prongs of the best interests test by clear and convincing evidence, N.J.S.A. 30:4C-15.1(a); and (2) termination of defendant's parental rights was in Mary's best interests. In this appeal, our review of the trial judge's decision is limited. We defer to his expertise as a Family Part judge, Cesare v. Cesare, 154 N.J. 394, 413 (1998), and we are bound by his 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 Bernstein's factual findings are fully supported by the record and, in light of those facts, his legal conclusions are unassailable. We therefore affirm substantially for the reasons that the judge expressed in his well-reasoned opinion.

Affirmed.

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



CLERK OF THE APPELLATE DIVISION