RECORD IMPOUNDED

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0617-21

NEW JERSEY DIVISION OF CHILD PROTECTION AND PERMANANCY,

Plaintiff-Respondent,

v.

R.W.,

Defendant-Appellant,

and

A.P. and L.A.P.,

Defendants.

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IN THE MATTER OF THE GUARDIANSHIP OF L.A.P. and A.R.W., minors.

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Submitted October 11, 2022 – Decided November 22, 2022

Before Judges Sumners, Susswein and Berdote Byrne.

On appeal from the Superior Court of New Jersey, Chancery Division, Family Part, Ocean County, Docket No. FG-15-0042-20.

Joseph E. Krakora, Public Defender, attorney for appellant (Laura M. Kalik, Designated Counsel, on the briefs).

Matthew J. Platkin, Attorney General, attorney for respondent (Melissa H. Raksa, Assistant Attorney General, of counsel; Leah A. Schmidt, Deputy Attorney General, on the brief).

Joseph E. Krakora, Public Defender, Law Guardian, attorney for minors (Meredith Alexis Pollock, Deputy Public Defender, of counsel; Jennifer Sullivan, Assistant Deputy Public Defender, of counsel and on the brief).

PER CURIAM

Defendant R.W.[1] appeals from the October 7, 2021 order terminating her parental rights to her two minor children, A.R.W. (Ashley) and L.A.P. (Lane).[2] Defendant contends the trial court erred by failing to consider recent revisions to New Jersey's child-placement statutory framework that emphasize the

[1] We use initials and pseudonyms to protect the identity of the family members. R. 1:38-3(d)(12).

[2] Lane's father, A.P. (Arnold), and Ashley's father, L.A.P. (Leonard) do not appeal from the termination of their parental rights.

importance of kinship caregiving and kinship legal guardianship (KLG),[3] L. 2021, c. 154 (the 2021 Amendments).[4] Defendant also contends the trial court misapplied the "best interests" statutory factors, see N.J.S.A. 30:4C-15.1(a). After carefully reviewing the record in light of the parties' arguments and governing principles of law, we affirm.

I.

Defendant endured a difficult childhood that was marred by abuse, neglect, and parental substance abuse. By age fourteen, she was living with an abusive boyfriend and using drugs and alcohol. At age eighteen, she was arrested, and by age twenty-one, she was living in a halfway house. After her release, she stayed sober for over six years.

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[3] A kinship legal guardian is "a caregiver who is willing to assume care of a child due to parental incapacity, with the intent to raise the child to adulthood, and who is appointed the kinship legal guardian of the child by the court." N.J.S.A. 3B:12A-2. KLG transfers "certain parental rights" to the guardian, "but retains the birth parents' rights to consent to adoption, the obligation to pay child support, and the parents' right to have some ongoing contact with the child." N.J.S.A. 3B:12A-1(b).

[4] Those amendments took effect on July 2, 2021, three months before the guardianship trial was convened. We note the only amendment to the termination of parental rights "best interests" factors, N.J.S.A. 30:4C-15.1(a), was the deletion of the sentence: "[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. Div. of Child Prot. & Perm. v. D.C.A., ___ N.J. Super. ___, ___ (App. Div. 2022) (slip op. at 19).

Ashley was born in August 2014. Shortly thereafter, defendant separated from Ashley's father, Leonard, because he began using heroin. Defendant later met Arnold at a treatment program and, in December 2016, gave birth to Lane, Arnold's son. In 2017, defendant was prescribed pain medication for a hip surgery after which she relapsed into heroin use and started using crystal methamphetamine.

In August 2018, Arnold was hospitalized after defendant reported his psychotic and aggressive behavior to police. He admitted using crystal methamphetamine, and the matter was referred to the Division of Child Protection and Permanency (the Division or DCPP). A week later, defendant reported to the Division that Arnold's aggressive behavior continued and that he had been involuntarily committed to Ocean Medical Hospital. The Division implemented a safety protection plan (SPP) requiring Arnold to stay away from the children unless supervised. Defendant agreed with that plan because she valued the children's safety.

In September 2018, defendant admitted to her 2017 relapse and subsequent drug use. She began intensive outpatient therapy (IOP) and, for a time, tested negative for illicit drug use. On October 15, the Division was

granted care and supervision of Ashley and Lane. The children nonetheless remained in defendant's custody.

Although she did not test positive for illicit drugs, the Division described defendant's participation in IOP treatment as "marginally compliant." In October 2018, she was evicted for nonpayment of rent. Defendant and the children went to live with their paternal grandmother but were asked to leave in November because defendant allowed Arnold into the home. Defendant and the children then moved to the maternal grandmother, K.J.'s, house. The Division amended the SPP to require that defendant be supervised with the children and to bar Arnold from going to K.J.'s house.

In December 2018, defendant violated the SPP by picking up the children from daycare unsupervised. Defendant claimed she thought the supervision requirement had been lifted. Additionally, K.J. reported finding drug paraphernalia in defendant's room and urine samples in the refrigerator. Defendant later admitted to using "fake urine" to pass drug screens. Based on the violation of the SPP and suspected drug use, the Division conducted a Dodd[5] removal of Lane and Ashley.

[5] A Dodd removal refers to an emergency removal of children from a home without a court order, under the Dodd Act, N.J.S.A. 9:6-8.21 to -8.82.

The Division was granted custody of the children pursuant to a December 18, 2018 order. Lane was placed with his paternal aunt and uncle. Ashley was initially placed with her father but, after allegations of abuse, was returned to K.J.'s custody. The children have remained with those respective custodians, who now seek to adopt Lane and Ashley.

After the removal, defendant resumed drug use and began living in her car. The Division documented that defendant did not maintain contact with the Division caseworker and was unavailable for visits with the children. In January 2019, defendant was arrested for shoplifting and drug possession.

From May 2019 to June 2020, defendant was discharged from five different treatment programs due to noncompliance. She was in jail from June 26 to July 25, 2019 for drug possession. After a positive drug test in December 2019, she affirmed that she was committed to reunifying with her children but resisted the Division's efforts to provide services.

In fall 2020, defendant began IOP treatment at Ocean Mental Health Services (Ocean). She appeared to engage well with that program, testing negative for illicit drugs from September 2020 through January 2021[6] and

[6] The Division questions the validity of those drug tests due to Ocean's practice of providing two-day notice.

regularly attending sessions. Defendant also completed an anger management program in November 2020 and participated in trauma counseling starting in February 2021. Defendant continued to do well in her treatment until a positive hair follicle test from April 6, 2021 and a positive drug screen on May 19. She was arrested on May 13 on drug-related charges. Throughout this time, defendant was involved in a physically abusive relationship with M.C.

Defendant failed to submit further urine samples to Ocean until June 2021, but she was not discharged from the treatment program. In July, defendant was dismissed from the trauma counseling for noncompliance. Later that summer, defendant's participation with Ocean improved and, as of August, the only treatment plan goal that was not achieved was stable housing. She started trauma therapy with Ocean that September.

While defendant was going through treatment, the Division pursued guardianship actions. On May 4, 2020, the Division filed an order to show cause for guardianship of Lane and a guardianship complaint to terminate the parental rights of defendant and Arnold. On March 1, 2021, the Division added Leonard and Ashley to the guardianship complaint. In sum, by spring 2021, the Division was seeking to terminate all parental rights as to Lane and Ashley.

The guardianship trial occurred over the course of three days in fall 2021. The Division called four witnesses: Division caseworker Crystal Farkas; Ashley's grandmother and resource parent, K.J.; Lane's aunt and resource parent, M.P.; and psychologist Dr. David Brandwein. The Law Guardian presented psychologist Dr. Maureen Santina. Defendant called Farkas and Division supervisor Deanna Stickle.

Importantly for purposes of this appeal, K.J. testified with respect to the option of KLG and her understanding of that arrangement.[7] She testified that she wanted to "offer [Ashley] exactly what [Ashley] wants, and [Ashley] wants to be adopted and have some space between her and her mother so that she can heal." K.J. testified that she would not be willing to engage in KLG because she did not think it was in Ashley's best interests and that "[Ashley] has specifically expressed that, that she needs some space between her and her mother . . . to heal and to move forward in a safe and secure and loving environment." K.J. was also adamant that she would not accept KLG because of the alleged sexual

[7] On cross-examination, K.J. responded "[y]es" to the question, "[a]nd your understanding of KLG, based on the questioning [on direct], was that you would have to be in sort of a co-parenting relationship with the parents of [Ashley], correct?" But when then asked, "[w]ould your position change about KLG if you knew that you didn't have to be in a co-parenting role with the biological parents of [Ashley]?" K.J. responded, "[n]o."

abuse by Ashley's father. Finally, K.J. made clear that, under either a KLG or adoption arrangement, she would continue to help Ashley and Lane spend time together.

M.P. also considered both KLG and adoption. She accurately described what the KLG arrangement would entail. She testified that she and her husband had discussed the options and chose adoption. She explained, "we feel that [Lane] deserves to know where he is going to reside and have that permanency." She said that she and her husband had researched KLG and learned "a lot" about it at a kinship care conference. Like K.J., M.P. testified that she wanted to continue contact between Ashley and Lane. She also said that, even if defendant's parental rights were terminated, she would permit defendant to have a relationship with Lane in a way that is healthy for him.

On October 7, 2021, the trial judge rendered an oral decision terminating defendant's parental rights as to both children. The judge found the Division proved by clear and convincing evidence that the children's wellbeing would be endangered by continuing the parental relationship. The judge noted defendant's inability to maintain long-term sobriety, her failure to complete any services besides anger management, her failure to comply with court orders, and her failure to take advantage of the services provided by the Division.

The judge also found that "[defendant] is not in any better position today than she was in 2018, when the children were removed, to eliminate any harm that would be facing them as a result of her drug use." The judge added, "there is no plan for the children. There's no plan for sobriety. There's no plan for housing. There's simply no plan if the [c]ourt were to consider returning the children to [defendant]'s care."

The judge next found that the Division "made more than reasonable efforts to provide services," noting the Division "implemented every service that was recommended by any evaluations and that there were no services that were not implemented by [the Division] as a result of any evaluations that were done."

The judge also found that the Division satisfied its burden with respect to whether termination of parental rights would do no more harm than good. In reaching that determination, the judge relied on the two "uncontroverted" expert opinions that terminating defendant's parental rights would not do more harm than good.

Importantly, the judge noted that the KLG statute had recently been amended, but reasoned "regardless of whether or not the statute was amended . . . . [n]either of the resource parents is interested in [KLG]." The judge concluded KLG "is not the appropriate remedy here" because "[t]here is no

evidence before this [c]ourt that [defendant] at any time would be able to cure what led to the children's removal." The judge added that KLG "cannot be forced" on the resource parents.

The judge found the Division proved each prong of the best-interests test by clear and convincing evidence. She thereupon terminated all three parents' parental rights so that the resource parents could adopt Ashley and Lane.

Defendant raises the following contentions on appeal:

> POINT I
>
> THE TRIAL COURT'S DECISION MUST BE REVERSED BECAUSE THE TRIAL COURT COMMITTED PLAIN ERROR IN REFUSING TO APPLY THE [2021] AMENDMENTS TO THE STATUTORY SCHEME AND THE CLEAR LEGISLATIVE INTENT UNDERLYING THEM.
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> A. THE [2021] AMENDMENTS MANDATE THAT KINSHIP CARE IS PREFERRED OVER TERMINATION OF PARENTAL RIGHTS AND PARENTAL RIGHTS MUST BE PRESERVED AND PROTECTED
>
> B. THE TRIAL COURT MISAPPLIED EX POST FACTO AND RETROACTIVITY CONCEPTS BY DECLINING TO FOLLOW THE LEGISLATURE'S INTENT AND AMENDMENTS TO THE STATUTORY SCHEME, WHICH HAD BEEN ENACTED THREE MONTHS PRIOR TO THE TRIAL COURT'S DECISION

POINT II

THE TRIAL COURT'S DECISION MUST BE REVERSED BECAUSE DCPP FAILED TO ESTABLISH BY CLEAR AND CONVINCING EVIDENCE THAT TERMINATION WAS IN THE BEST INTERESTS OF THE CHILDREN UNDER N.J.S.A. 30:4C-15 AND N.J.S.A. 30:4C-15.1(a).

A. THE TRIAL COURT FAILED TO PROPERLY CONSIDER ALTERNATIVES TO TERMINATION OR WHETHER TERMINATION WOULD NOT DO MORE HARM THAN GOOD, PURSUANT TO PART TWO OF PRONG THREE AND PRONG FOUR, BECAUSE KLG WAS NEVER ADEQUATELY EXPLORED

B. THE TRIAL COURT ERRED IN CONCLUDING THAT DCPP HAD DEMONSTRATED, BY CLEAR AND CONVINCING EVIDENCE, THAT THE CHILDREN'S SAFETY, HEALTH OR DEVELOPMENT HAD BEEN OR WOULD CONTINUE TO BE ENDANGERED BY THE PARENTAL RELATIONSHIP OR THAT DEFENDANT WAS UNWILLING OR UNABLE TO ELIMINATE THE HARM

1. A POSITIVE DRUG SCREEN OVER THE COURSE OF SIX MONTHS OF SOBRIETY IS NOT CLEAR AND CONVINCING EVIDENCE OF AN INABILITY TO OVERCOME DRUG ADDICTION

2. DR. BRANDWEIN RENDERED AN INADMISSIBLE NET OPINION

REGARDING DEFENDANT'S COMPLIANCE WITH SERVICES AND FUTURE ABILITY TO PARENT

C. THE COURT ERRED IN HOLDING THAT DCPP PROVED THAT IT HAD MADE REASONABLE EFFORTS TO PROVIDE SERVICES TO DEFENDANT

II.

A parent has a constitutional right to raise his or her biological child, which "is among the most fundamental of all rights." N.J. Div. of Youth & Fam. Servs. v. F.M., 211 N.J. 420, 447 (2012) (citing N.J. Div. of Youth & Fam. Servs. v. E.P., 196 N.J. 88, 102 (2008)). However, that right is not absolute. N.J. Div. of Youth & Fam. Servs. v. R.G., 217 N.J. 527, 553 (2014). At times, a parent's interest must yield to the State's obligation to protect children from harm. N.J. Div. of Youth & Fam. Servs. v. G.M., 198 N.J. 382, 397 (2009).

To effectuate those concerns, the Legislature created a multi-part test to determine when it is in the child's best interest to terminate parental rights. Specifically, N.J.S.A. 30:4C-15.1(a) requires the Division to prove four prongs by clear and convincing evidence:

> (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;
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> (3) The [D]ivision 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.

The four prongs of the test are "not discrete and separate" but rather "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. 337, 348 (1999). "The considerations involved in determinations of parental fitness are 'extremely fact sensitive' and require particularized evidence that address the specific circumstances in the given case." Ibid. (quoting In re Adoption of Children by L.A.S., 134 N.J. 127, 139 (1993), superseded by statute on other grounds, N.J.S.A. 9:3-46(a)). The trial court must consider "not only whether the parent is fit, but also whether he or she can become fit within time to assume the parental role necessary to meet the child's needs." N.J. Div. of Youth & Fam. Servs. v. R.L., 388 N.J. Super. 81, 87 (App. Div. 2006) (citing In re Guardianship of J.C., 129 N.J. 1, 10 (1992), superseded by statute on other

grounds, N.J.S.A. 9:3-46(a)). When applying the best-interests test, moreover, a trial court must pay careful attention to a child's need for permanency and stability without undue delay. In re Guardianship of D.M.H., 161 N.J. 365, 385 (1999).

Our review of a family judge's factual findings in a guardianship trial is limited. In re Guardianship of J.N.H., 172 N.J. 440, 472 (2002). Findings by a Family Part judge are "binding on appeal when supported by adequate, substantial, and credible evidence." Cesare v. Cesare, 154 N.J. 394, 412 (1998) (citing Rova Farms Resort, Inc. v. Invs. Ins. Co., 65 N.J. 474, 484 (1974)). We may reverse a family court's factual finding only if it was so "clearly mistaken" or "wide of the mark" that it results in a "denial of justice." Parish v. Parish, 412 N.J. Super. 39, 48 (App. Div. 2010) (quoting E.P., 196 N.J. at 104); see also Cesare, 154 N.J. at 412 (holding an appellate court should not disturb the trial court's factual findings unless they are "so manifestly unsupported by or inconsistent with the competent, relevant, and reasonably credible evidence as to offend the interests of justice" (quoting Rova Farms, 65 N.J. at 484)).

"[T]he conclusions that logically flow from those findings of fact are, likewise, entitled to deferential consideration upon appellate review." R.L., 388 N.J. Super. at 89. However, the "interpretation of the law and the legal

consequences that flow from established facts are not entitled to any special deference." Manalapan Realty, L.P. v. Twp. Comm. of Manalapan, 140 N.J. 366, 378 (1995). "Whether the facts found by the trial court are sufficient to satisfy the applicable legal standard is a question of law subject to plenary review on appeal." State v. Cleveland, 371 N.J. Super. 286, 295 (App. Div. 2004); see also N.J. Div. of Child Prot. & Perm. v. A.B., 231 N.J. 354, 369 (2017) ("we review the judge's legal conclusions de novo"). We add that no appellate deference is owed to a trial court's interpretation of a statute. N.J. Div. of Child Prot. & Perm. v. Y.N., 220 N.J. 165, 177 (2014).

III.

We first address defendant's contention that the trial court erred by not taking into account the recent revisions to the child-placement statutory framework. Specifically, the judge remarked:

> And [KLG] in this case, regardless of whether or not the statute was amended or not, and this . . . statute is not ex post facto. In other words, this case was in existence at the time the statute was amended. It's at the very end of this litigation.
>
> Neither of the resource parents is interested in [KLG]. And although [K.J.] thought that it was co-parenting, her testimony later revealed that she is well aware of what [KLG] is all about.

We are satisfied the 2021 Amendments do not change the result. The amendments to the KLG statute at N.J.S.A. 3B:12A-6(d)(3) do not apply to a termination of parental rights case. Removing the KLG Act's requirement that a court find adoption "neither likely nor feasible" before granting KLG is a factor in the determination as to whether KLG is the appropriate permanency plan but has no place in a termination of parental rights trial. The amendment to the KLG statute now ensures that a resource parent's willingness to adopt no longer forecloses KLG. But, the amendment to N.J.S.A. 3B:12A-6(d)(3) does not affect N.J.S.A. 30:4C-15.1(a)(1) to (4).

The KLG amendment does not negate the separate considerations articulated in prongs two, three, and four, requiring the Division prove delay of permanent placement will add to the harm, the Division explored alternatives to termination, and termination of parental rights will not do more harm than good. N.J.S.A. 30:4C-15.1(a)(2) to (4). As noted, the only amendment to the termination of parental rights factors was removing from prong two consideration of harm to the child caused by separation from the resource parents. See D.C.A., ___ N.J. Super. at ___ (slip op. at 19). Therefore, legislative changes to N.J.S.A. 3B:12A-6(d)(3) have no bearing on a termination of parental rights best interest analysis.

We recognize that defendant challenges the caregivers' "informed" and "unconditional, unambiguous, and unqualified" decision to choose adoption over KLG. The record clearly shows, however, that the caregivers' decisions were informed and unambiguous.

Defendant relies on our decision in N.J. Div. of Child Prot. & Perm. v. M.M., 459 N.J. Super. 246 (App. Div. 2019), for the proposition that this case should be remanded to more fully investigate the resource parents' choice of adoption over KLG. However, the matter before us is readily distinguishable from M.M. In that case, neither resource parent testified, and the "bits of hearsay" used to demonstrate their preference for adoption were ambiguous. Id. at 266–73. Here, both caregivers testified, and both were unwavering in their decision to adopt rather than accept a KLG appointment.

Defendant's related contention that the resource parents did not adequately understand the difference between KLG and adoption is also belied by the record. Regarding M.P., Lane's caregiver, defendant argues that her "testimony that she had 'researched' KLG was insufficient to demonstrate that her decision was fully informed." However, when asked to describe her understanding of KLG, M.P. testified, "we would continue to be his guardians, and they would not terminate parental rights[.] . . . [E]ventually [Lane's birth parents] could

petition to have their rights back. But he would stay in our home, and we would be the guardians during that time." We believe that to be an accurate description of a KLG arrangement.

Regarding K.J., Ashley's caregiver, defendant focuses on K.J.'s use of the word "co-parent" in describing KLG. See note 7, above. Defendant claims there "was simply no evidence" K.J.'s "testimony later revealed that she is well aware of what [KLG] is all about" as the trial court found. But, when specifically asked on cross-examination whether her position on KLG would change if she knew there would not be a co-parenting relationship, K.J. responded "[n]o." Additionally, when given a correct description of KLG and asked whether she would be willing to accept such an arrangement, K.J. declined. K.J. explained that her decision was based on Ashley's need for "space between her and her mother." That explanation shows K.J. did not want defendant to have a right to visitation as she would have under KLG. We thus conclude that K.J.'s decision was neither ambiguous nor uninformed.

In sum, we are satisfied that the 2021 Amendments do not change the analysis in this case.

IV.

We turn next to defendant's arguments regarding the trial court's remaining findings under the best interests test. We reject defendant's contention that the trial court's finding of harm to the children was improper because she had never physically abused the children and the initial removal was "partially based on an admitted misunderstanding between [the Division], [defendant,] and K.J."[8] The law is clear that the Division need not substantiate physical abuse to show harm to the child. The requisite harm can be shown by "the entrenched severity of the parents' drug addiction, the negative effect it had on their lives, and the instability of the child's home." N.J. Div. of Youth & Fam. Servs. v. H.R., 431 N.J. Super. 212, 223 (App. Div. 2013). It is clear from the record that defendant's serious and ongoing substance abuse problem has created significant instability for the children.

Defendant compares her situation to two cases in which we held that a parent's drug use in and of itself did not constitute abuse and neglect: N.J. Div. of Youth & Fam. Servs. v. V.T., 423 N.J. Super. 320 (App. Div. 2011); and N.J.

[8] Presumably, the "misunderstanding" to which defendant alludes was her incorrect belief that her supervision requirement had been lifted after three negative drug screens. This argument disregards K.J. finding urine in the refrigerator and drug paraphernalia in defendant's room before the children were removed.

Div. of Child Prot. & Perm. v. S.W., 448 N.J. Super. 180 (App. Div. 2017). Unlike those cases, however, the fact of defendant's drug use is but one of the circumstances that demonstrate her unfitness to parent. Her drug use and related problems have led to criminal behavior, housing instability, and violent relationships. We find no abuse of discretion in the trial court's findings with respect to her addiction and failed rehabilitation efforts.

Defendant also argues that she is willing and able to provide a safe, stable home because "[t]hroughout this litigation, defendant sought reunification with her children and attempted to satisfy DCPP service providers and evaluators." It is well documented, however, that defendant resisted services offered by the Division and was noncompliant with services in which she did engage. It is also troubling that defendant falsified drug tests to conceal ongoing drug abuse. Her apparent compliance with Ocean, which defendant heavily relies on, is tainted by the positive drug screens in April and May 2021 and her refusal to submit further samples until June 2021.

We next turn to defendant's contention, made for the first time on appeal, that Dr. Brandwein rendered an inadmissible net opinion regarding her compliance with services and future ability to parent because he did not review the Ocean records made after January 2021. She claims the omission of the most

recent records made his opinion "not supported by factual evidence or other data," citing Townsend v. Pierre, 221 N.J. 36, 53–54 (2015). It is well-settled, however, "[t]he net opinion rule is not a standard of perfection. . . . An expert's proposed testimony should not be excluded merely 'because it fails to account for some particular condition or fact which the adversary considers relevant.'" Id. at 54 (internal quotation marks omitted) (quoting Creanga v. Jardal, 185 N.J. 345, 360 (2005)).

In this instance, Dr. Brandwein made personal observations of defendant and her interactions with her children and reviewed police reports, a letter from Ashley's therapist, and the Ocean records up to January 2021. When Dr. Brandwein was apprised of defendant's more recent records at trial, he opined that "one [positive test] is too many." While Dr. Brandwein's opinion may have been strengthened by a pretrial review of the later Ocean records, the trial court's decision to admit his testimony—which was not objected to at trial —and to rely on it as credible was not an abuse of discretion. Townsend, 221 N.J. at 53.

Finally, we address defendant's argument that the Division failed to prove it had made reasonable efforts to provide services to help her correct the circumstances that led to the children's placement outside the home, N.J.S.A.

30:4C-15.1(a)(3). Specifically, defendant claims the Division failed to provide trauma therapy, depression treatment, and housing assistance.

Her argument regarding trauma therapy is belied by the record. According to defendant's brief, she began trauma therapy with Catholic Charities on February 16, 2021 and participated before being dismissed for noncompliance on July 19, 2021. She then "re-engaged with trauma therapy through [Ocean]."

Defendant also contends the Division did not offer depression services, "even though Dr. Brandwein had observed that defendant seemed to suffer from mild or moderate depression." A careful review of the record shows that Dr. Brandwein's only reference to depression is a brief mention during his testimony at the guardianship trial that "[defendant] appeared somewhat sad or depressed, which is quite common among parents who are going through family court matters." That brief remark at trial does not constitute a diagnosis and treatment recommendation. We are satisfied the Division did not act unreasonably by not offering depression services.

Lastly, defendant argues the Division did not do enough to provide her with housing. Again, the record belies that assertion. The Division gave defendant information so she could seek housing assistance. However, when the Division requested information to assess her housing situation, Defendant

failed to provide it. Defendant's caseworker testified the Division would have helped defendant budget and initiate new housing if it was requested, but defendant would not provide information about her current living situation and "expressed ambivalence about seeking alternative housing." Furthermore, defendant continued to reside with M.C. despite the domestic violence. In view of her failure to cooperate, the Division did not act unreasonably with respect to housing services. See D.M.H., 161 N.J. at 390 (holding that the parent's level of cooperation informs what services must be provided to make the Division's efforts reasonable). In sum, the trial judge's finding that the Division "made more than reasonable efforts to provide services" was not clearly mistaken. Parish, 412 N.J. Super. at 48.

To the extent we have not addressed them, any remaining arguments raised by defendant lack sufficient merit to warrant discussion in this opinion. R. 2:11-3(e)(2).

Affirmed.