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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NOS. A-3076-20
A-3078-20

NEW JERSEY DIVISION
OF CHILD PROTECTION
AND PERMANENCY,

Plaintiff-Respondent,

v.

A.F. and J.G.,

Defendants-Appellants.

IN THE MATTER OF THE
GUARDIANSHIP OF H.G.,
L.G., and D.G., minors.

Submitted September 28, 2022 – Decided October 31, 2022

Before Judges Currier and Bishop-Thompson.

On appeal from the Superior Court of New Jersey,
Chancery Division, Family Part, Middlesex County,
Docket No. FG-12-0020-20.

Joseph E. Krakora, Public Defender, attorney for appellant A.F. (Christine Olexa Saginor, Designated Counsel, on the briefs).

Joseph E. Krakora, Public Defender, attorney for appellant J.G. (Mark E. Kleiman, Designated Counsel, on the briefs).

Matthew J. Platkin, Acting Attorney General, attorney for respondent (Sookie Bae-Park, Assistant Attorney General, of counsel; Nicholas Dolinsky, Deputy Attorney General, on the brief).

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

PER CURIAM

Defendants A.F. (Allison)¹ and J.G. (Jim) appeal from the June 15, 2021 judgment of guardianship terminating their parental rights to their children H.G. (Hailey), L.G. (Logan), and D.G. (Daniel). Defendants contend the New Jersey Division of Child Protection and Permanency (Division) did not present sufficient evidence to satisfy the four prongs of the best interests of the child standard under N.J.S.A. 30:4C-15.1. After a review of the contentions in light of the record and applicable principles of law, we affirm.

¹ We use initials and pseudonyms in the interest of the parties' privacy in accordance with Rule 1:38-3(d).

I.

Between 2007 and 2011, the Division received six referrals with allegations of neglect, primarily over the family's hygiene and living conditions, however none warranted an abuse or neglect finding. The children have been in the custody of the Division since January 2015.

In January 2018, the Division filed for guardianship of the three children. The trial on the first guardianship complaint took place in May 2018. Jim was not served with the complaint and did not participate in the trial. After hearing testimony, the first Family Part judge found the Division had not demonstrated support for prong four of the best interests of the child standard. Therefore, the guardianship case was dismissed without prejudice. The children remained in the Division's custody.

In September 2019, the Division filed a second complaint for guardianship. A second trial began in September 2020 and continued over various dates through March 2021. A different Family Part judge found the Division had satisfied the statutory prongs and terminated Allison's and Jim's parental rights. The following facts are derived from evidence elicited in the second trial.

Although the Division first received a referral regarding this family in 2007, the events leading to the children's removal and eventual order for guardianship began in 2013.

In January 2013, police were called to the family's rented home and discovered there was no electricity, hot water, or food. A Division investigator met with Allison's older son, Jonathan, then twelve years old,² at school. Jonathan stated the family had moved into the home several months earlier. He shared a room with his younger brother Joseph and a dog. Allison, Jim, Hailey, Logan, and Daniel all slept together in another room. However, because the dog defecated all over the house, Jonathan stated he and Joseph also began sleeping in Allison and Jim's room.

When asked about the heat and electricity, Jonathan stated it had been off for approximately three weeks. Jonathan said that Allison lit candles and he and his siblings would run around for a long time to warm themselves up and grow tired for bed. Jonathan said he had not showered since the prior week but used washcloths to clean up. He stated the family ate dinner purchased or prepared by Allison or Jim would cook on a makeshift cinderblock stove in the backyard.

² Allison has two older sons who were not the subject of the guardianship complaint and are not parties to this appeal.

Jonathan told the investigator that Jim used to drink alcohol and "go crazy," yelling at Allison. However, Jim was no longer drinking at that time. The investigator also spoke with a social worker at the children's school who said the older boys wore clothes that were soiled, too small, or smelled. She was unable to reach out to Allison because Allison did not have a working telephone number. In addition, the social worker stated Joseph had eight unexplained absences.

Thereafter, the investigator went to the family home where she saw dog feces and urine on the floor throughout the living room. In Jonathan and Joseph's bedroom, there were dog feces on the floor and dog food under the bed. One of the beds did not have a mattress. The bathroom was dirty, the shower only turned on with the use of a screwdriver, and there was garbage on the floor. Allison and Jim told the investigator that another bedroom was used by the landlord and had two mattresses on the floor, on one of which there was a door. In Allison's and Jim's bedroom there was one bed, one crib, two toddler beds, one mattress, a refrigerator, two electric heaters, bags of clothes, old food, canned food, and a hot plate. The house was too cold for the investigator to proceed with the interview there.

Although the investigator attempted to conduct the interview at a nearby fast-food restaurant, Allison stated she had to pick up the children from school and her father from work, so the investigator agreed to just proceed with Jim. However, Jim was swaying while walking in the opposite direction of the restaurant, and when Allison tried to redirect him, he never made it inside. Instead, the investigator found Jim standing against the wall at the drive-thru, leaning and almost falling to the ground, and she noted his eyes were very red. The investigator said Jim's speech was slurred, he was closing his eyes, and he was unable to comprehend what she was saying. The investigator contacted the police to assist Jim. When they arrived, Jim was laying on the other side of the parking lot across the sidewalk with one shoe off.

Another Division investigator contacted Allison's mother that evening. The investigator learned that the grandmother knew there was no heat and electricity in Allison's home. She also stated that Jonathan and Joseph stayed with her on the weekends. She could not commit to taking in the entire family until she spoke with her husband.

Allison's father said Jim was unable to maintain a job. He stated that Allison and Jim were frequently evicted for failure to pay rent or because the apartment was dirty. He told the investigator he did not have room in his home

for the other three children and that the maternal grandmother had numerous medical conditions that prevented her from caring for five children. If the children ended up in foster care, the maternal grandfather said he would be willing to care for Joseph and Jonathan.

The investigator then met with Allison. Allison explained that she had her first son when she was sixteen years old and had another child shortly thereafter.

Allison stated that Jim drank alcohol and would punch holes in the walls when drinking. But Jim never hit her or the children when he was drunk and usually the children were sleeping when this occurred. Allison also said Jim generally only drank alcohol when he was unemployed, and she believed it was a coping mechanism for him. She stated that Jim's mother drank alcohol and used drugs and both Jim's mother and her husband were physically violent with Jim.

Allison described a number of homes the family had rented. They left those homes because of disrepair, lack of water and electricity, or an inability to pay the rent. Allison stated at one point Jim was using illegal substances. Allison agreed to undergo a psychological and substance abuse evaluation.

After further discussion, the maternal grandfather agreed the children could live with him. The Division implemented a safety protection plan limiting Jim's contact with the children.

Although Jim enrolled in a one-year (nine months in-patient and three months out-patient) treatment program, it is unclear whether he attended it or for how long. Jim admitted to using Oxycodone, Vicodin, Percocet, and alcohol. During the trial, the Division caseworker testified that she tried to place Jim in a substance abuse treatment program, but he said he intended to receive inpatient treatment from a church-based agency in Perth Amboy and he would be living at the church. The caseworker could not confirm whether Jim enrolled in the program.

In March 2013, Allison underwent a psychological evaluation. The psychologist found that Allison valued her children's views, did not condone physical violence, and "demonstrated adequate parenting knowledge and skills." The evaluator did not recommend any services for Allison.

Jim also submitted to a psychological evaluation. He admitted to consuming a lot of alcohol when he was younger but stated that he now only drinks a few times a year. The evaluator recommended Jim continue substance abuse treatment.

At some point, Allison reported to the Division that Jim had moved to New York to live with his father and that she was no longer in a relationship with him and only communicated with him via Facebook. Because Hailey and Logan were displaying behavioral issues, they were scheduled for mental health treatment and individual therapy.

In April 2013, Allison reported that Jim arrived intoxicated to the hotel where they were residing, pushed her and grabbed her by the neck; but he did not injure her. Thereafter, an updated safety protection plan was put into place to keep Jim away from the children. The Division also assisted Allison with moving into a domestic violence shelter with her children and connected her with Catholic Charities to help the family find housing and assist by paying three months' rent and a security deposit.

In September 2014, the Division closed the case after confirming Jim no longer lived with the family, that Allison and the children had housing, and the children were receiving therapy.

The Division reopened the case in January 2015 after learning Allison was charged with aggravated assault after she struck Jim with her car. She was also charged with possession of drug paraphernalia. Allison admitted she was using heroin. Jim was charged with criminal mischief arising out of the same incident

after he punched the car window and smashed the glass. The children were in the car during this event.

A Division worker met with the maternal grandfather who stated that Joseph and Jonathan had lived with him since the summer. He said Allison and Jim were staying at a motel because they were evicted from their prior home after failing to pay rent. Allison was in jail as a result of the criminal charges.

The Division worker also interviewed five-year-old Hailey about the incident. Hailey recalled that her parents were arguing, Jim kicked the car and Allison almost hit Jim with it, and then Jim got very mad and smashed the window. Hailey said this was not the first time she has seen her parents argue and that sometimes they yell at each other and hit each other. Hailey said her parents never hit her.

Jim told the worker he was not abusing drugs or alcohol and that he would comply with a substance abuse evaluation. He said he has never used heroin, and he was not aware of Allison abusing drugs.

Jim stated they lived in a hotel for a period of time but were currently renting two rooms in a man's home where the children have beds and food. Jim said Division caseworkers were often at the home to check on the homeowner,

who is an alcoholic, and the homeowner's children. The Division worker informed Jim that the residence was not a suitable place for Jim's family.

Jim could not produce any family or friends who could care for the children. He agreed to a removal of the children and placement with the Division. The two older boys remained with the maternal grandparents.

The Division worker met with Allison at the county jail. The worker informed her that the Division had custody of the children and they were in a safe resource home. Allison could not present any family or friends to serve as resource parents for the children.

Allison told the worker that she lost her job in November 2014 but Jim was working as a diesel mechanic. She said they hoped to take over the lease and rent the entire home they were currently in. Allison said another man lived in the home who was nice and kept to himself. She was aware the homeowner had an open case with the Division, and he was not supposed to be drinking.

When asked about the incident with the car, Allison said she and Jim were arguing, Jim kicked her car and then she intentionally hit him with the vehicle out of rage.

Allison also admitted to using heroin for about two months and said she was previously taking Xanax as prescribed but then turned to heroin. She said

she did not know whether Jim was using drugs, but he was aware that she had been using heroin. She later conceded that Jim started using pills after he was injured at work and that he had been using heroin for the last three months.

In later months, Hailey demonstrated behavioral issues and alleged her resource parent was physically abusing her. The resource parent told the Division that Hailey wanted to be with her parents and would say anything to be with them. Hailey also told the caseworker that her parents hit her and her siblings and that Allison used a belt. Allison denied that she and Jim used physical discipline.

When the resource parent reported the children were stealing from her, misbehaving, and touching each other inappropriately, the children were placed in a new home and began receiving counselling services. Allison and Jim had still not found suitable housing for the family.

Although both parents provided the Division with some names of family and friends who might be resource parents, they were all ruled out by the Division for various reasons.

During the spring of 2015, Jim was recommended to enter an inpatient treatment program because he was still abusing drugs. He did not do so and was

inconsistent with the outpatient program. Allison tested positive twice for drugs in October 2015.

During the remainder of the year and into 2016, Jim was in jail for a period of time and both parents remained in substance abuse treatment. In June 2016, Allison moved to Florida. She was instructed to continue her substance abuse program.

When the Division caseworker visited Allison in Florida in August 2017, she found Allison living in an infested mobile home with a man who was a registered sex offender. At the time of the first trial in 2018, Allison was still living in the mobile home with the sex offender.

In January 2021, Allison moved into an apartment in Florida owned by her parents. The home had three bedrooms, and Allison hoped to stay there and to reunify with her children. Allison said the home was in a quiet neighborhood with a park, pool, and an after-school program nearby.

As to employment, Allison stated she began working in November 2020 as a sales loan associate at La Familia Pawn and Jewelry. She said she was training for a management position and earned enough money to pay her bills. Allison sought reunification with her children and for them to live with her in

Florida. She said she continued to attend substance abuse treatment programs. Allison spoke with the children weekly by phone after she moved to Florida.

The Division's contacts with Jim were less consistent as he was often in and out of jail. Even when out of jail, he would not return the Division's calls or keep scheduled appointments or participate in services. After Jim was served with the guardianship complaint, he began to participate in a residential drug treatment program.

At the time of trial, Hailey and Daniel were living in a home with two resource parents. The Division caseworker reported that Daniel's behavior and performance in school had improved. The worker noted Hailey was comfortable in the home and both children showed affection toward the resource parents. Logan had also grown more affectionate with his resource parents. All of the children remained in therapy.

Hailey, then twelve, testified in September 2020 that she wanted her foster parents to adopt her because "they're good people that are loving and caring and they'll mostly be great parents." Hailey said she does not "want [her parents] to have any more chances" because they are making her life and her brothers' lives "miserable." Hailey said their lives were miserable because the family moved often, and they lived "with total strangers." Hailey said she did not want to

move to Florida with Allison because it would be a new place for her. Although Hailey said she was happy to see Jim after she had not seen him in a while, that was no longer the case because he could not give them a home to live in. Hailey thought the last phone or video call she participated in with Allison was in April 2020 and she began to feel "really uncomfortable talking to her." As of September 2020, the children all refused to see Allison.

Allison Strasser-Winston, Ph.D., performed psychological evaluations of Allison and Jim. She also conducted bonding evaluations of both parents with the children and the children with their respective resource parents.

Although Dr. Strasser-Winston was concerned that Allison had a long history of trauma and instability which affected her ability to function and to provide for her children, she found that Allison still had the "knowledge base and desire to appropriately provide for her children's emotional and physical needs."

During the bonding evaluation between Allison and the children, Dr. Strasser-Winston observed that Allison was "very appropriate" with the children, and the children were physically affectionate and comfortable with Allison. However, when Allison told the children she wanted them to come to Florida to be with her permanently, none of them responded.

When Dr. Strasser-Winston asked the children whether they would prefer to be adopted or to remain with Allison, Hailey and Daniel said they would rather be adopted while Logan said he would like to be with his mom but would "not mind being adopted."

Dr. Strasser-Winston also evaluated Jim at an inpatient substance abuse treatment program. Although cooperative, the doctor said Jim was guarded and minimized his criminal history, substance abuse issues, and past in terms of domestic violence. Jim mentioned he had a fiancée. He had not seen his children in three years but thought when he saw them it would "be like nothing had ever changed." He did not have any plans for housing or employment.

Jim and the children participated in two therapeutic visits with the children's therapist prior to the bonding evaluation with Dr. Strasser-Winston since they had not seen each other in three years. The interactions during Jim's bonding evaluation with the children were appropriate, physically affectionate, and the children were happy to see him.

Dr. Strasser-Winston also conducted a bonding evaluation between the children and their resource parents. She described the interactions as appropriate and the children were comfortable. All the resource parents wished to adopt the children and hoped to maintain the sibling relationships.

Dr. Strasser-Winston concluded that "neither [Allison] nor [Jim] was capable of providing the children with a safe and stable environment and that it would be in the children's best interest for the parents' rights to be terminated so that they could be adopted by their resource parents." The expert opined that because of Allison's long history of neglect and failing to provide for the children, they "no longer trusted her and that she had damaged her bond with her children because they do not view her as a provider—a consistent provider of their needs. They don't trust that if they need something that she's going to be able to give them what they need."

The children have been in numerous resource homes through the years. Each had only been in the current resource home for several months at the time of trial. Nevertheless, Dr. Strasser-Winston found "they were in the process of developing a secure attachment [with their resource parents] that would strengthen over time."³

In addressing Jim, the doctor stated she "was very concerned that he also was unable to provide the children with a safe and stable environment." She found he remained at a risk for relapse and had a history of anger issues. She

³ The doctor testified in November 2020. She reported that the children were still doing well in their resource homes. They reiterated their desire to be adopted.

also remarked that Jim would be unable to manage the children's behavioral issues. Furthermore, the children did not have a secure attachment with Jim "because he had been absent from their lives for such a long time."

Dr. Strasser-Winston opined that the children would suffer some emotional harm from terminating the parental relationship, but that harm would not be serious or enduring. The expert described the children as being "in dire need of permanency."

Dr. Strasser-Winston was asked about defendants' expert's recommendation for kinship legal guardianship (KLG). She found it "noteworthy" that the expert was not recommending reunification. She stated KLG was not in the children's best interest because "it [would] not give them the permanency, the stability and the security that . . . adoption would give them."

Andrew Brown, Ph.D., testified as a psychological and neuropsychological expert for Allison. Dr. Brown conducted a psychological evaluation of Allison and bonding evaluations with her and the children in February 2020. Dr. Brown testified he did not believe Allison had any behavioral or emotional problems, childhood trauma, or evidence of abuse. Dr.

Brown's only concerns were Allison's history with housing instability and domestic violence.

Dr. Brown also observed affection and comfort during the bonding evaluation between Allison and her children. He noted the children had good relationships with their resource parents, but they were less affectionate. Dr. Brown testified the children said they would like to live with Allison if she was stable but that Hailey and Logan still hoped to be adopted.

The doctor opined that "the children are securely attached to their—their natural mother. I also reached the conclusion that they have a . . . good relationship[] or positive relationship[] with the resource parents. But the mother remains the central figure of attachment in these children's lives." He stated that "terminating her parental rights and—and presumably separating her contact from her children would certainly do more harm than good." However, if the court sought to remove the children permanently, Dr. Brown said a KLG arrangement "would satisfy the children's need to remain in a relationship with their natural mother."

II.

On appeal, defendants contend the court erred in terminating their parental rights because the Division failed to establish the four required statutory factors under N.J.S.A. 30:4C-15.1.

We defer to the trial court's findings of fact, which are binding on appeal, "when supported by adequate, substantial, credible evidence." Cesare v. Cesare, 154 N.J. 394, 411-13 (1998). We accord particular deference to a family court's factfinding "[b]ecause of the family courts' special jurisdiction and expertise in family matters." Id. at 413; see also Thieme v. Aucoin-Thieme, 227 N.J. 269, 282-83 (2016). However, our review of a court's interpretation of legal issues is de novo. Rowe v. Bell & Gossett Co., 239 N.J. 531, 552 (2019).

Parents have a "fundamental liberty interest . . . in the care, custody, and management of their child," which "does not evaporate simply because they have not been model parents or have lost temporary custody of their child to the State." Santosky v. Kramer, 455 U.S. 745, 753 (1982). Further, parents maintain this right even when a child is placed in foster care. In re Guardianship of J.C., 129 N.J. 1, 9 (1992) (citing Santosky, 455 U.S. 745). The New Jersey Legislature has set forth that "[t]he preservation and strengthening of family life is a matter of public concern as being in the interests of the general welfare." In

re Guardianship of K.H.O., 161 N.J. 337, 347 (1999) (quoting N.J.S.A. 30:4C-1(a)).

Still, parental rights are not absolute. Ibid. The State has a "parens patriae responsibility to protect the welfare of children." J.C., 129 N.J. at 10. The state may intervene in the parent-child relationship and terminate parental rights if the relationship will continue to harm the child. See In re Guardianship of D.M.H., 161 N.J. 365, 377 (1999).

"The balance between parental rights and the State's interest in the welfare of children is achieved through the best interests of the child standard[,]" which is named in N.J.S.A. 30:4C-15(c) and elaborated in N.J.S.A. 30:4C-15.1(a) as four prongs. K.H.O., 161 N.J. at 347-48. They are:

- (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;
- (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).]

The Division must prove each prong by clear and convincing evidence. N.J. Div. of Youth & Fam. Servs. v. A.W., 103 N.J. 591, 611 (1986). The prongs "are not discrete and separate; they relate to and overlap with one another to provide a comprehensive standard that identifies a child's best interests." K.H.O., 161 N.J. at 348. The court may not make presumptions against parents in termination of parental rights cases, and all doubts which arise must be resolved against termination of rights. Id. at 347.

III.

After carefully reviewing defendants' contentions in light of the record and applicable principles of law, we affirm substantially for the reasons expressed in the trial judge's comprehensive June 15, 2021 oral decision. We add only the following comments.

Initially, both parties contend the court erred in applying the doctrine of collateral estoppel to find the Division satisfied the first three prongs of N.J.S.A. 30:4C-15.1(a).

After a lengthy and thorough recitation of the facts, trial testimony and procedural history, the judge noted he reviewed the opinion rendered by the first

Family Part judge after the 2018 guardianship trial. In that decision, the first judge found the Division had proved the elements of the first three prongs by clear and convincing evidence. The second judge found the doctrine of collateral estoppel applied and, therefore, it was not necessary to make findings on the first three prongs. However, the court then went on to make those findings. Therefore, we need not address whether the application of the doctrine was correct or necessary.

There was more than sufficient evidence for the court to find defendants were unable to remediate their substance abuse issues, maintain stable housing, and prevent the resultant harm to their children. More than five years had passed from the time the children were removed from defendants' care and the time of the second trial.

Between the dismissal of the first guardianship complaint and the second trial, Allison moved at least five times. She was not listed on the lease for the house she claimed to reside in. Instead, five other people were on the lease. The court found it was not appropriate to bring an additional three children into the house, if in fact she lived there. Although she was working at the time of trial, Allison had a history of unemployment. Furthermore, the judge noted she could not support three children on her limited income.

Moreover, Allison was not truthful with the Division about her housing situation. She told the Division she was living alone when in fact she was living with a registered sex offender. This unwillingness or inability to protect her children from the danger of others along with the instable housing and employment is sufficient evidence for the State to establish prongs one and two.

As for the evidence presented by the Division regarding Jim, it is clear he created a risk of harm to his children by his ongoing substance abuse issues, periods of incarceration, and lack of maintaining contact with the Division. Although Jim entered several substance abuse treatment programs, he was unable to remain drug-free or comply with the terms of his probation. As a result, Jim poses a substantial risk to the children due to his substance abuse issues. In addition, Jim had a history of domestic violence with Allison during their relationship. This constitutes a past harm caused to the children. As with Allison, Jim has been unable to eliminate the harm facing the children or to provide a safe and stable home. See N.J.S.A. 30:4C-15.1(a)(2).

In turning to the third prong, the Division provided Allison and Jim with a multitude of services in the years of this litigation, including substance abuse evaluations and treatment, mental health evaluations and treatment, visitations, domestic violence counseling, therapy for the children, and transportation to

visitations and other services. The Division flew Allison to New Jersey for court appearances and arranged visits with the children when she came to the state.

Defendants contend the trial judge failed to consider (KLG) as an alternative to termination of parental rights, as it is "the 'preferred resource.'" Defendants rely on a recent legislative amendment which stated that KLG is now the "preferred resource" in child removal cases because "the use of kinship care maintains the children's connections with their families." L. 2021, c. 154, § 1(b). We note this legislation was enacted after the court's decision here. Moreover, we are mindful of our Court's holding that KLG is "not meant to be a substitute for the permanency of adoption but, rather, to provide as much permanency as possible when adoption is not feasible or likely and a relative is willing to care for the child." N.J. Div. of Youth & Fam. Servs. v. P.P., 180 N.J. 494, 510 (2004).

KLG provides for the option of a relative becoming a child's legal guardian while the parents maintain parental rights. N.J. Div. of Youth & Fam. Servs. v. L.L., 201 N.J. 210, 222-23 (2010). Here, there was no option of a relative becoming the children's legal guardian. The Division investigated several family and friends proffered as resource parents and found they were not suitable or unqualified.

All three of the children's resource parents wish to adopt the children. The children have expressed a desire to be adopted by their current resource parents. KLG has no place here with resource parents willing to adopt and no relative available to care for them.

We turn then to the fourth prong, which "serves as a fail-safe against termination even where the remaining standards have been met." N.J. Div. of Youth & Fam. Servs. v. G.L., 191 N.J. 596, 609 (2007). The court should balance the harm that will be suffered from termination against the benefit. K.H.O., 161 N.J. at 355. Furthermore,

the fourth prong of the best interests standard cannot require a showing that no harm will befall the child as a result of the severing of biological ties. The question to be addressed under that prong is whether, after considering and balancing the two relationships, 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.]

Although the court found both experts were qualified, he gave greater weight to Dr. Strasser-Winston's testimony. What weight to give a witness's evidence is within the province of the court. See LaBracio Family P'ship v. 1239 Roosevelt Ave., Inc., 340 N.J. Super. 155, 165 (App. Div. 2001).

The trial court balanced the harm to the children that they will endure from separation from their parents, which Dr. Strasser-Winston concluded was not permanent, with the good that will stem from the adoption. The court credited Dr. Strasser-Winston's opinion that the children did not view their biological parents as being able to provide safety and protection for them.

All three children stated they were comfortable with their resource parents. A permanent home will finally end the years of instability the children have endured with so many resource placements. Because of the importance of permanence to a child's well-being and development, limits are placed "on the amount of time a parent may have to correct conditions at home in anticipation of reunification." K.H.O., 161 N.J. at 358. "Children must not languish indefinitely in foster care while a birth parent attempts to correct the conditions that resulted in an out-of-home placement." N.J. Div. of Youth & Fam. Servs. v. S.F., 392 N.J. Super. 201, 209 (App. Div. 2007).

We are satisfied the Division presented sufficient credible evidence to support all of the statutory prongs to warrant the termination of defendants' parental rights.

Affirmed.

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

A handwritten signature in black ink, appearing to be 'JLD', written over the printed text of the clerk's name.

CLERK OF THE APPELLATE DIVISION