

RECORD IMPOUNDED

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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-2332-21

NEW JERSEY DIVISION
OF CHILD PROTECTION
AND PERMANENCY,

Plaintiff-Respondent,

v.

S.A.,

Defendant-Appellant,

and

D.V.,

Defendant.

IN THE MATTER OF THE
GUARDIANSHIP OF M.A.,
a minor.

Submitted February 1, 2023 – Decided February 28, 2023

Before Judges Firko and Natali.

On appeal from the Superior Court of New Jersey,
Chancery Division, Family Part, Bergen County,
Docket No. FG-02-0026-22.

Joseph E. Krakora, Public Defender, attorney for
appellant (Sarah L. Monaghan, Designated Counsel, on
the briefs).

Matthew J. Platkin, Attorney General, attorney for
respondent (Donna S. Arons, Assistant Attorney
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Attorney General, on the brief).

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

PER CURIAM

After a three-day Title 30 guardianship trial, the Family Part issued a lengthy written decision in March 2022 terminating the parental rights of Shari and Dillon, the biological parents of Matthew.¹

Shari now appeals, contending the New Jersey Division of Child Protection and Permanency (Division) failed to prove all four prongs of the statutory "best interests of the child" test under N.J.S.A. 30:4C-15.1(a) by clear

¹ We use pseudonyms in this opinion to safeguard the privacy of the parties. R. 1:38-3(d)(12).

and convincing evidence. Dillon has not appealed. The Law Guardian joins with the Division in opposing Shari's appeal. We affirm.

I.

Matthew was born in July 2018. He is presently four years and seven months old. As the record reflects, Shari has a history of severe and unremitting mental health issues. She has four older children, all of whom are in the custody of their biological father, Shari's ex-husband, Zabir, and his wife, Yasmina.

Matthew's removal has its genesis in a June 2020 incident when Shari reported to Hasbrouck Heights police that men were fighting outside of her apartment, following her, and threatening her with violence. When the police arrived, they found no evidence to corroborate these reports and discovered Shari had barricaded herself and Matthew in her bathroom. Shari had previously called the police on several occasions since 2018 to report similar threats, all of which the police deemed to be unfounded. After Shari was involuntarily committed to Bergen New Bridge Medical Center (New Bridge), the police contacted the Division requesting immediate care for Matthew.

Shari's behavior in June 2020 was not an isolated incident. In the twelve years prior to that event, the Division received nine referrals concerning Shari and her children, including her four oldest children. The referrals led to six

Child Protective Services investigations and three Child Welfare Services assessments.

To address its concerns, the Division and Shari entered a safety protection plan and the Division also sought to find a friend or relative to stay with Shari and Matthew. Shari contacted several friends to care for Matthew and became irate when they declined. She then successfully identified a friend, Frank, who agreed to stay with her and Matthew for a few days if the Division could provide him transportation, which it did. The next day, however, Frank contacted the Division and stated he could no longer be part of the safety plan due to Shari's threatening behavior. Again seeking to find a relative caregiver for Matthew, the Division contacted Shari's brother, who declined to help and informed the Division Shari had cut ties with family. The Division's attempts to involve Dillon in Matthew's care were also unsuccessful.

After its failed attempts to identify a relative caretaker, the Division executed an emergency removal and placed Matthew with Shari's friend, Diane, who requested her involvement be kept secret from Shari due to concerns regarding Shari's psychiatric instability. Two days later, the court granted immediate custody of Matthew to the Division, permitted Shari supervised

visitation, and ordered the Division to arrange counseling, a psychological evaluation, and a psychiatric evaluation for her.

Diane cared for Matthew until August 2020, at which point she contacted the Division and stated she was no longer able to do so. Again seeking relative and friend placement, the Division contacted Diane's daughter, Jenny, along with Zabir and Yasmina, and it also attempted to contact Dillon, but they all declined to care for Matthew. Accordingly, the Division placed Matthew with Betty, an unrelated resource parent, who expressed an interest in adopting Matthew. The Division subsequently discussed adoption and kinship legal guardianship (KLG) with Betty.

In April 2021, the Division initiated efforts to unite Matthew with his half-siblings by facilitating sibling visitation. Matthew subsequently had several overnight visits with Zabir and Yasmina and was placed in their home on June 21, 2021, at which point they expressed a desire to adopt Matthew. At a June 22, 2021 permanency hearing, the court determined the Division's permanent plan for termination of parental rights followed by adoption was appropriate and acceptable.

In July, Zabir and Yasmina informed the Division they were no longer interested in adopting Matthew but they asserted Yasmina's sister was interested

in adopting him. That placement was ultimately unsuccessful, however, because Yasmina's sister failed to attend a number of appointments and required training sessions. The Division thereafter returned Matthew to Betty's care, where he continues to reside. The Division filed its guardianship complaint in July 2021.

After Matthew's removal in June 2020, Shari began a pattern of sending inappropriate, accusatory, and hostile text messages to Jenny and Division caseworkers, many of which accused the receiving parties of having sexual relations with Dillon. On one occasion, she sent forty-five messages to a caseworker accusing her of mistreating Matthew and kidnapping him for money. Additionally, on two occasions, Shari submitted unfounded reports of physical and sexual abuse perpetrated by Yasmina against Shari's then sixteen-year-old daughter.

In July 2020, Shari sent messages threatening a caseworker with violence, stating she would send them on a "permanent vacation" and "no one could save the worker." She also claimed a woman had broken into her apartment, worn her lingerie, and had sexual relations on her bed. As a result, on July 27, 2020, Division workers contacted 262-Help, a psychiatric emergency screening program, with concerns for Shari. Shari was taken to New Bridge and involuntarily committed the following day.

New Bridge diagnosed Shari with bipolar disorder with psychotic features, prescribed Risperdal and Depakote, and discharged her one week later. Because of the threatening text messages, the Division arranged for human services police to be present during Shari's scheduled visitation with Matthew.

Within two weeks of her discharge, Shari voluntarily admitted herself to the psychiatric unit at Hackensack University Medical Center (HUMC). While at HUMC, Shari complied with her medication and, upon her discharge, began medication monitoring at Bergen Psychiatric Associates. That monitoring ended a few months later, however, as Bergen Psychiatric discharged Shari for treatment non-compliance. Additionally, after her discharge from HUMC, Shari continued her inappropriate texting behavior and, on one occasion, sent 108 text messages berating a Division worker, threatening her life, and accusing her of abusing Matthew.

In order to assess her mental health needs and ability to provide for Matthew, the Division sought a forensic psychological evaluation from Daniel Bromberg, Ph.D. Dr. Bromberg concluded Shari's mental health condition "severely impair[ed] her own functioning, and consequently, her ability to provide her young son with a safe and stable home environment," and stated

Shari lacked awareness of her condition, which was likely associated with medication non-compliance.

The Division also arranged a psychiatric evaluation with Samiris Sostre, M.D., who concluded Shari "presented with significant and prominent symptoms consistent with bipolar disorder or schizoaffective disorder bipolar type." During that evaluation Shari acknowledged she was diagnosed with bipolar disorder, but she denied suffering from that disorder and was unable to describe her medication regimen. Two weeks later, on October 6, 2020, a caseworker and the police made an unannounced visit to Shari's apartment, where they heard her shouting to herself and banging on the walls. She refused their request to enter the apartment.

In December 2020, Shari completed an intake at Comprehensive Behavioral Health for medication monitoring but missed her first appointment and did not begin treatment until several weeks later. In January 2021, Shari continued her threats toward Division workers during several home visits and, during a virtual meeting, stated Matthew's resource parent neglected him and she believed the Division "want[s] to kill [her] son because [they] don't like [her][.]" Shari demanded Comprehensive Behavioral Health close her case and refused her recommended weekly medication.

Additionally, between December 2020 and February 2021, Shari continued to engage in a pattern of sending inappropriate and hostile emails. Specifically, she: denied needing counseling; sought immediate return of Matthew; stated she could not take medication because she was pregnant; accused the Division of mistreating her and Matthew because they were jealous of her relationship with Matthew and her success; called Division workers "porn stars"; denied her aggression and violence; warned that Dillon was lying to the Division, as he was in New Jersey and having an affair with Jenny; and offered money in exchange for Matthew's return to her.

On February 25, 2021, Shari became hostile during a supervised visit and claimed Matthew's resource home was dangerous. During a phone call that same day, Shari became irate and stated "karma is starting today" and "[c]ase workers are going to die." The Division contacted 262-Help and Shari was again hospitalized at New Bridge the following day.

Shari was discharged in early March 2021, and, one week later, began treatment with Dr. Flores², a psychiatrist at New Bridge. Dr. Flores prescribed Abilify for her psychosis and Topamax for her mood swings, and noted Shari lacked insight into her mental illness. Throughout his treatment, which lasted

² Dr. Flores' first name is not contained in the record.

until June 2021, Dr. Flores expressed concerns over her medication compliance and reported Shari was not yet sufficiently stable for therapy.

Shari's delusional and concerning conduct continued throughout 2021. For example, in April 2021, Shari reported to the Division Zabir and Yasmina sexually abused her children, Jenny sexually abused Matthew, her then eighteen-year-old son was murdered, and Matthew's resource parent neglected him. In her reports, Shari stated she was calling from the United Nations (UN) headquarters, where she claimed to have worked, and explained Jenny had custody of Matthew because she had a panic attack. Two weeks later, Shari reported to the police her daughter was kidnapped and murdered. Shari later reported to the Division that Yasmina and a caseworker conspired to kill her then seventeen-year-old son and Dillon was involved.

In July 2021, although the Division continued to observe inappropriate behavior, it also reported positive interactions between Shari and Matthew. By September 2021, Shari exhibited a consistent pattern of appropriate behavior during visitation. Additionally, the record reflects Shari had an appropriate phone conversation with Betty, in which they discussed Betty's home and care for Matthew.

Prior to the guardianship trial, the Division retained Frank Dyer, Ph.D., to psychologically evaluate Shari, which he did on October 15, 2021. In his report, Dr. Dyer observed Shari was appropriately dressed and groomed, engaged in a pleasant manner, and was cooperative. He noted, however, her "responses to questions were strongly suggestive of the persistence of the delusional beliefs described in the materials from [the Division]." Dr. Dyer noted that throughout the evaluation, Shari denied knowing why Matthew was removed from her care or ever threatening caseworkers, and she accused the Division of lying about her actions. Dr. Dyer concluded Shari was "reasonably stabilized psychiatrically at the present time, likely because she is appropriately medicated and has a productive relationship with her treating psychiatrist." He also noted, however, she continued "to harbor paranoid delusional ideas concerning [Division] personnel and her son's godmother."

Dr. Dyer also administered a personality assessment inventory, and observed Shari answered in a highly defensive manner, was not open or honest, "view[ed] herself as not having any problems that require therapeutic attention," and the "record is similar to those of individuals who are faking good." Dr. Dyer also administered bonding evaluations for Matthew with Shari and Betty.

After analyzing her test results and clinical records, Dr. Dyer concluded Shari "is capable of presenting in a calm and controlled manner when she is receiving the benefits of therapy and is taking her psychiatric medication as prescribed," but she has a "tendency to regress to angry, aggressive, delusional mental states under the impact of stress, which includes being criticized or confronted by others."

Dr. Dyer also noted Shari's:

former treating psychiatrist, Dr. Flores, noted that she has no insight into her psychosis and that he suspected poor compliance with medication. Thus, if [Matthew] were returned to [Shari]'s care during a period when she appeared stable and well oriented to reality, it is doubtful that she would be able to recognize signs that she is deteriorating psychiatrically. This lack of insight, coupled with the likely poor compliance with medication noted by Dr. Flores, means that there is an extremely high risk that [Shari] would regress to the aggressive, hostile, disorganized mental condition associated with the original removal of [Matthew].

...

If [Matthew] could be reunified with a fully functioning birth mother who was able to behave consistently in the appropriate, affectionate, and engaging manner that she displayed during the present bonding assessment, there would not be much of a problem. It is likely that this child, who does appear to be resilient, would eventually form a genuine attachment to his birth mother that would deepen and blossom as he continued in her care. The reality, however, is that [Shari] is very likely

incapable of maintaining this degree of mental and behavioral stability for the long term. If [Matthew] was suddenly confronted with a birth mother who was angry, hostile, inattentive to his needs, and paranoid toward the world, the effects upon him would be devastating

Additionally, Dr. Dyer concluded Shari's "prognosis for being able to achieve adequate parenting capacity within the foreseeable future is regarded as extremely poor," and Matthew appeared attached to Betty. Accordingly, he recommended the Division pursue permanency with Betty.

The Division also retained Joseph Siragusa, M.D., to perform a psychiatric evaluation, which he did on November 23, 2021. During the evaluation, Shari reported complying with her prescribed medication of Risperdal, which she claimed to take to prevent panic attacks and denied its effect as an antipsychotic medication, which is its intended purpose. She also denied her history of psychosis or manic symptoms and, when asked about the necessity of having supervision at her visits, she became "less logical and more tangential (if not disorganized), animated, and angry," and stated Division workers were jealous of her because she worked at the UN.

Dr. Siragusa also observed "[d]uring the interview, there was evidence of delusional beliefs described throughout the documentation" and "at the time of the evaluation, her insight with regard to her mental health was minimal, and

her judgment was estimated to be poor in most regards." Accordingly, he concluded "[g]iven that her insight into her illness is so poor, there is little reason to be optimistic that her adherence to medication will be sustained over a long period of time. It is additionally doubtful that she would be able to recognize signs/symptoms of her psychiatric decompensation."

Shari also was treated by Bahar Hadjiesmaeiloo, M.D. for medication monitoring. Dr. Hadjiesmaeiloo observed Shari had been compliant with her medication since May 2021 and "[a]lthough it is not possible to predict future recurrence of symptoms, [the medication] reduced the risk of symptom exacerbation to the extent possible."

At the guardianship trial, the Division presented three witnesses: Lakeisha Reyes, a Division adoption case manager, Dr. Dyer, and Dr. Siragusa. Reyes testified she became Shari's case manager in July 2021, and since that time, Shari has been cooperative, communicative, and appropriate, and a "totally different [Shari] from what has been documented before" Reyes explained, however, Shari had been non-compliant with her prescribed medication for the first eight to ten months of treatment, and Matthew is "very attached to his current resource parent" and thriving in his resource home.

According to Reyes, the Division explored adoption and KLG with Betty as permanency plans for Matthew and, "[o]f course, [Betty] prefers adoption. However, she is on board for what . . . will be the best outcome for [Matthew]." Reyes further explained Betty preferred adoption because she is concerned about the impact on Matthew if his family members lacked consistency with visitation or failed to follow the KLG recommendations given his need for consistency and stability. Reyes then testified the Division believes reunification is contrary to Matthew's best interest because of Shari's history, mental status, and level of insight into her needs, as well as Matthew's need for "a permanent and stable environment to grow up in."

Dr. Dyer and Dr. Siragusa appeared as expert witnesses for the Division and provided testimony consistent with their written reports. Dr. Dyer also opined that permanent reunification with Shari would place Matthew at risk of physical harm, and described Matthew's attachment to Betty as "a significant feature of [his] inner emotional life." Similarly, Dr. Siragusa reaffirmed his poor prognosis for Shari's capacity to parent Matthew successfully in the future, as well as his concern she will stop taking her medication.

Finally, Shari testified on her own behalf and explained she called the police on June 20, 2022, because she was scared someone would hurt her, as she

changed her religion from Muslim Islam to Orthodox Christian. She also claimed her issues with caseworkers prior to Reyes were caused by those caseworkers' mistreatment of her. She noted, however, she has improved under Dr. Hadjiesmaeiloo's monitoring and intends to continue in her care with him.

The court terminated Shari's and Dillon's parental rights over Matthew in a March 15, 2022 order and placed its reasons on the record in oral and accompanying written opinions that same day. In its written opinion, the court found Reyes's, Dr. Dyer's, and Dr. Siragusa's testimony to be credible, and concluded Shari was not credible, and was inconsistent with the expert's testimony and the record, unclear and illogical at times, evasive, and not inherently believable.

In its analysis, the court explained, under N.J.S.A. 30:4C-15.1(a), "[t]he Division shall initiate a petition to terminate parental rights on the grounds of the 'best interests of the child,'" when the following four prongs are satisfied:

- (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.

The court further noted the Division must "prove[] each of these four[] elements by clear and convincing evidence."

Under the first prong, the court found the Division "demonstrated by clear and convincing evidence that there has been harm as a result of the parental relationship" between Shari, Dillon and Matthew. The court concluded Matthew's nineteen-month tenure in resource care without permanency constituted harm and attributed that harm to his parents' failure or unwillingness "to address their substance abuse issues, housing instability and their respective mental health issues which have placed [Matthew] in danger." The court also noted Matthew has been placed in several different homes because, in part, Shari alienated caretakers, such as Jenny and Frank, who had volunteered to care for him.

Additionally, the court credited Dr. Dyer's and Dr. Siragusa's expert testimony that Shari could not provide Matthew with a stable home. Based on

their testimony, the court concluded "the child's health and development would be endangered by reunification with [Shari]."

Under the second prong, the court found Dr. Dyer's and Dr. Siragusa's testimony explaining Shari's lack of insight into her mental condition and the severity of her past actions as evidence of her inability to remediate the harm that resulted in Matthew's removal. The court explained Shari's lack of awareness impacted her ability to successfully parent Matthew, currently and in the future.

The court also concluded, again relying upon Dr. Dyer's and Dr. Siragusa's evaluations, psychological testing, and testimony, Shari would be unable to provide permanency and stability to Matthew in the foreseeable future. The court further determined "delay of permanent placement will add to the harm to this child" and Shari's "inability to safely parent [Matthew] in the foreseeable future will only serve to further delay the child's permanency and thus adds to this real and potential harm."

Under the third prong, the court credited Reyes's testimony as demonstrating the Division made "extensive and reasonable efforts" to provide Shari psychiatric services to support her recovery and possible reunification. The court explained the Division provided Shari with guidance during

hospitalization, assistance in finding Matthew resource homes, counseling services, psychological and psychiatric evaluations, and transportation to visitation, and continued to engage with her despite her hostile and aggressive behavior.

The court also concluded the Division satisfied its obligation to consider alternatives to termination, as it "assessed numerous individuals for [Matthew's] placement." Additionally, the court determined KLG was not an available alternative to termination because Betty indicated her clear preference for adoption and "[a]doption [was] feasible, likely and necessary" for Matthew's well-being.

Finally, under the fourth prong, the court found termination of Shari's parental rights would not do more harm than good, as Matthew "deserves the benefits of permanency through adoption." On this point, the court again relied primarily on Dr. Dyer's and Dr. Siragusa's expert opinions, particularly their poor prognosis for Shari's capacity to parent Matthew. The court also reasoned the evidence showed Matthew would not suffer a significant loss by termination, and any such loss "would be remedied by [Betty]," with whom he developed substantial attachment. The court concluded terminating Shari's parental rights

"will provide the child with the best opportunity to develop into an emotionally healthy and productive adolescent and adult." This appeal followed.

II.

As noted, Shari challenges the trial court's findings on all four of the statutory criteria. She especially focuses on prong three, contending the court applied the "already-deleted language in N.J.S.A. 3B:12A-6(d)(3)(b) about KLG not being available if adoption [was] feasible or likely." In this regard, she argues the Division "did not provide any evidence, let alone clear and convincing evidence, that termination of Shari's parental rights was necessary when KLG was an option." We reject these contentions, and the other arguments presented on appeal.

Our review of this appeal is guided by well-settled standards for termination cases. In such cases, the trial court's findings generally should be upheld so long as they are supported by "adequate, substantial, and credible evidence." N.J. Div. of Youth & Family Servs. v. R.G., 217 N.J. 527, 552 (2014). A decision in this context should only be reversed or altered on appeal if the trial court's findings were "so wholly unsupportable as to result in a denial of justice." N.J. Div. of Youth & Family Servs. v. P.P., 180 N.J. 494, 511 (App. Div. 2004).

We must give substantial deference to the trial court's opportunity to have observed the witnesses first-hand and to evaluate their credibility. R.G., 217 N.J. at 552. We also must recognize the considerable expertise of the Family Part, which adjudicates a large volume of cases brought by the Division under Title 9 and Title 30 involving the alleged abuse or neglect of children. See, e.g., N.J. Div. of Youth & Family Servs. v. F.M., 211 N.J. 420, 448 (2012); N.J. Div. of Child Prot. & Permanency v. B.H., 460 N.J. Super. 212, 448 (App. Div. 2019). That said, "[a] trial court's interpretation of the law and the legal consequences that flow from established facts are not entitled to any special deference." R.G., 217 N.J. at 552 (quoting Manalapan Realty v. Manalapan Twp. Comm., 140 N.J. 366, 378 (1995)).

Little needs to be said here about the trial court's findings of past and future harm to Matthew under prongs one and two. As detailed above, the court carefully described and considered the circumstances that resulted in the child's plight, and the unlikelihood that Shari will be able to provide a stable home for him in the future. The court's conclusions were supported by the testimony of Reyes, Dr. Dyer, and Dr. Siragusa, all of whom opined Shari was incapable of providing Matthew a stable and permanent home. Notably, these conclusions did not fail to consider her progress under Dr. Hadjiesmaeiloo's care, as Shari

contends, as all three witnesses based their conclusions on observations of Shari that took place after she became treatment compliant.

Turning to prong three, we are satisfied the court had ample credible evidence in the record to conclude the Division made reasonable efforts to provide services to Shari, and reasonably explored alternatives to termination including KLG. Under prong three, KLG is an alternative to termination of parental rights. KLG allows a relative to become the child's legal guardian and commit to care for the child until adulthood, without stripping the parents of their rights. P.P., 180 N.J. at 508. The Legislature created this arrangement because it found "an increasing number of children who cannot safely reside with their parents are in the care of a relative or a family friend who does not wish to adopt the child or children." N.J. Div. of Youth & Fam. Servs. v. L.L., 201 N.J. 210, 222-23 (2010).

Prior to July 2, 2021, KLG was considered "a more permanent option than foster care when adoption '[was] neither feasible nor likely.'" P.P., 180 N.J. at 512-13 (quoting N.J.S.A. 3B:12A-6(d)(3) to (4)). "[W]hen a caregiver . . . unequivocally assert[ed] a desire to adopt," the standard to impose a KLG was not satisfied because the party seeking a KLG arrangement would be unable to show adoption was neither feasible nor likely. N.J. Div. of Youth & Fam. Servs.

v. T.I., 423 N.J. Super. 127, 130 (App. Div. 2011). In other words, when permanency through adoption was available to a child, KLG could not be used as a defense to the termination of parental rights. N.J. Div. of Youth & Fam. Servs. v. D.H., 398 N.J. Super. 333, 341 (App. Div. 2008).

On July 2, 2021, the Legislature enacted L. 2021, c. 154, which, in part, removed the KLG requirement that adoption be "neither feasible nor likely." See N.J.S.A. 3B:12A-6(d)(3). This means KLG may now remain a valid defense to the termination of parental rights, even when adoption is available as an option.

We are not persuaded the court's erroneous reliance on the pre-amendment language requires reversal in the circumstances presented here, as the Division produced clear and convincing evidence it pursued kinship placement and considered KLG and the eligible kinship caregiver demonstrated a clear preference for adoption. See R.G., 217 N.J. at 552 ("[a] trial court's interpretation of the law and the legal consequences that flow from established facts are not entitled to any special deference"). As detailed above, the Division made considerable efforts to place Matthew with relatives when it first removed him from Shari's custody and throughout his tenure in foster care. Additionally, the Division discussed KLG with Betty, who signed the acknowledgment of

receipt of the Division's KLG fact sheet and packet of information, but nevertheless evinced a clear preference for adoption due to her legitimate concerns about Matthew's need for stability and consistency. The Division shared these concerns, as evidenced by Reyes's testimony the Division believed termination, as opposed to reunification, was in Matthew's best interests.

We do not read the 2021 amendments as imposing on the Division an additional burden to pursue KLG contrary to the wishes of the eligible caregiver and its own determination as to the child's best interests. Indeed, KLG is available only when "awarding [KLG] is in the child's best interests," N.J.S.A. 3B:12A-6(d)(4), and "adoption typically is granted in lieu of [KLG] if it is readily available and the preferred course for the family member or friend who would otherwise be appointed the child's guardian," Fall & Romanowski, New Jersey Family Law Child Custody, Protection & Support § 18:3-4(c) (2022-2023); see also P.P., 180 N.J. at 508-13; T.I., 423 N.J. Super. at 137; D.H., 398 N.J. Super. at 341.

As to prong four, we have no reason to second-guess the court's assessment that termination would do more harm to the child than good. The court appropriately focused on Matthew's need for permanency and concluded termination of Shari's parental rights and adoption by Betty would provide the

permanency he deserves. In reaching that conclusion, the court again relied on the un rebutted documentary evidence and testimony of Dr. Dyer and Dr. Siragusa, both of whom the court found credible, that Shari's prognosis for developing the capacity to parent Matthew was poor, Matthew did not have a significant attachment to Shari, and termination was in his best interests.

The record also supported the court's determination Matthew "would suffer a traumatic loss and extreme distress if removed from [Betty]." The Division provided ample evidence demonstrating Matthew has thrived in Betty's care, developed a substantial attachment relationship with her, and separation from Betty would cause Matthew serious and enduring emotional harm.

Although we respect Shari's professed desire to parent, the trial evidence provides an ample basis for the final judgment of termination. All other points raised on appeal lack sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E).

Affirmed.

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



CLERK OF THE APPELLATE DIVISION