RECORD IMPOUNDED

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-2902-21
A-2903-21

NEW JERSEY DIVISION OF CHILD PROTECTION AND PERMANENCY,

Plaintiff-Respondent,

v.

N.K.G.,

Defendant,

and

E.L.P.,

Defendant-Appellant.

IN THE MATTER OF THE GUARDIANSHIP OF T.N.P., a minor.

NEW JERSEY DIVISION OF
CHILD PROTECTION AND
PERMANENCY,

Plaintiff-Respondent,

v.

C.N.T.,

Defendant,

and

E.L.P.,

Defendant-Appellant.

IN THE MATTER OF THE
GUARDIANSHIP OF A.R.T.,
a minor.

Submitted January 31, 2023 – Decided March 9, 2023

Before Judges Sumners and Berdote Byrne.

On appeal from the Superior Court of New Jersey, Chancery Division, Family Part, Atlantic County, Docket Nos. FG-01-0023-21 and FG-01-0037-21.

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

Matthew J. Platkin, Attorney General, attorney for respondent (Sookie Bae-Park, Assistant Attorney

General, of counsel; John J. Lafferty IV, Deputy Attorney General, on the brief).

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

PER CURIAM

In these consolidated appeals of two judgments terminating the parental rights of a biological father to his two daughters, we are asked to consider whether the trial court properly applied N.J.S.A. 30:4C-15.1(a) to a parent who has never parented either child and who was incarcerated for most of the time the children were in resource care. Specifically, defendant E.L.P. (Edward)[1] appeals the trial court's judgments of guardianship terminating his parental rights related to T.N.P. (Tanya) and A.R.T. (Angela). Edward alleges the trial court erred in finding the New Jersey Division of Child Protection and Permanency (Division) proved each prong of N.J.S.A. 30:4C-15.1(a) by clear and convincing evidence, maintaining the Division failed to prove he caused the children any physical or mental harm and, consequently, could not establish he was unwilling or unable to eliminate the non-existent harm. Edward also claims

[1] Initials and pseudonyms will be used to preserve confidentiality. See R. 1:38-3(d)(12).

the Division's efforts to maintain visitation with his children following his incarceration were unreasonable and alternatives to terminating his parental rights, such as kinship legal guardianship (KLG) with either a relative or the children's resource parents, were not adequately considered. Finally, he asserts the trial court had insufficient evidence to find terminating his rights will not do more harm than good.

We agree the language of N.J.S.A. 30:4C-15.1(a) does not lend itself easily to an analysis of a biological parent who has never parented a child because it requires the trial court to address the harm that caused the "removal" of the child, the amelioration of that harm, "reunification" of the child with that parent, and whether severing the child's bond with that parent will cause more harm than good. Nevertheless, we reaffirm that a biological parent, even one who has never parented a child or is unaware of his paternity until a child has been placed in resource care, must act with reasonable diligence to ensure the best interests of that child, including proposing a viable parenting plan within Adoption and Safe Families Act timeliness, see 42 U.S.C. § 675(5)(C), and failure to do so satisfies the requirements of N.J.S.A. 30:4C-15.1(a), warranting termination of parental rights. Here, Edward did not act with reasonable diligence in the best interests of his daughters, and we conclude the trial court

did not err in finding all four prongs of the statute were proven by clear and convincing evidence. We affirm.

I.

Tanya was born in October 2019, and the Division was informed she tested positive for cocaine and opiates. The Division substantiated neglect against N.K.G. (Nina), Tanya's mother, due to her drug use, causing Tanya to suffer from neonatal withdrawal symptoms. Nina identified Edward as Tanya's father and, upon being contacted by the Division, he expressed interest in taking custody of Tanya.

he Division had multiple concerns that caused it not to place Tanya initially with Edward; specifically, (1) his prior drug convictions; (2) his pending drug and money laundering criminal charges; (3) his positive drug test for cocaine on October 30, 2019 after denying current drug use; (4) his history of domestic violence against multiple partners; and (5) the fact he was denied access to Tanya at the hospital because he became so aggressive hospital security was forced to escort him out of the hospital.

As a result, the Division conducted an emergency removal on November 4, 2019, which was subsequently upheld by the trial court. In December 2019, Tanya was placed in her current resource home, which is the adoptive home of

her half-brother, Calvin. At three months old, Tanya was diagnosed with neonatal abstinence syndrome, hypertonia, and developmental delays. These health issues required Tanya to receive occupational therapy and begin early intervention with a developmental pediatrician.

Edward was afforded supervised visitation with Tanya in the subsequent months, but he attended only slightly more than half of them and always ended the visits hours early. He did not hold infant Tanya during the visits, spoke on the phone for most of the time, and objected to changing her diaper. The Division offered Edward substance abuse treatment and individual counseling focused on domestic violence. Although he initially complied with a substance abuse evaluation and treatment, he tested positive for cocaine twice, once for benzodiazepines, and once for alcohol before refusing to provide subsequent random urine screens in February 2020. He told the Division he was currently homeless. He attended two individual therapy sessions but stopped attending prior to his detention without bail in March 2020 for pending drug and money laundering charges and remained incarcerated before and throughout the guardianship trial while awaiting trial on his criminal charges.

In March 2020, Angela was born, and the Division received notice she had tested positive for cocaine and opiates. The Division substantiated its abuse

allegations against C.N.T. (Carol), Angela's mother, because her drug use caused Angela to suffer withdrawal symptoms. The Division conducted an emergency removal on April 13, placing Angela in a resource home. Initially, Carol identified Angela's biological father only by nickname and reported he provided her with drugs in exchange for sex. In August 2020, a paternity test confirmed Edward is Angela's father. Carol's father and stepmother declined to care for Angela and could not identify any other viable caregivers.

The Division testified in detail as to its extensive efforts to contact the jail regarding services for Edward, but it was hampered by the Covid-19 pandemic. The Division witnessed Edward's alarming behavior while incarcerated, including cursing and yelling at Division workers, and ripping the prison phone out of the wall and slamming it on the floor. He refused to meet with Division workers who visited him at the prison on several occasions.

The Division attempted to facilitate visitation between Edward and his daughters while incarcerated, but the prison would not permit it. Edward was also initially hesitant about having the girls visit him in that environment. Some visits ultimately occurred but more were cancelled due to the prison's Covid-19 protocols.

Edward told the Division he was unsure as to when he would be released and wanted both girls placed with his family. Edward's mother B.P. (Bonny) and sister T.P. (Tammy), who live together in Brooklyn, New York, with Tammy's minor son, were assessed as potential resource parents for Tanya. Tammy demonstrated initial interest in becoming a placement for Tanya and the Division provided her with information on how to apply for custody. She was granted visitation by the court. The Division also informed her of Tanya's special medical needs and notified her of medical appointments.

In January 2020, the Division submitted an Interstate Compact on the Placement of Children (ICPC) request with the New York Administration for Children's Services (ACS) to conduct a foster home study of Tammy. In May, ACS denied Tammy the foster placement because she was "unemployed and there is not sufficient income to care for an additional child." The Division informed Tammy she would not receive Tanya due to her lack of income. Tammy subsequently filed a complaint seeking custody of Tanya, stating her son's biological father, who is not blood-related to Tanya, would financially provide for Tanya, but the application was denied due to lack of income verification. She was informed she could reopen the application if she found a source of income or her son's father provided evidence of his willingness and

ability to financially support Tanya; however, she never applied for custody again. Tammy testified at trial that she earns $300 a week "under the table" but did not inform the Division because she believed it would not consider her situation "employment."

In April 2021, the Division submitted an ICPC request to ACS to study Bonny as a placement for Tanya. ACS notified the Division Bonny was denied the foster placement because of her noncompliance with the ICPC study and a previous "founded" incident that placed her in the New York Statewide Central Register of Child Abuse and Maltreatment (SCR). The Division subsequently ruled out Bonny in a letter dated October 18, 2021. That letter detailed the process and timeframe for appeal. Bonny did not appeal the rule out.

Edward provided the Division the name of his brother and his brother's girlfriend as potential resource caregivers, but they were also ruled out after his brother failed to respond to numerous attempts at outreach. His brother never contacted the Division and did not appeal the rule out.

On August 18, 2021, Edward underwent a psychological assessment conducted by Dr. Alan J. Lee, who rendered an expert report and testified at trial. Dr. Lee also conducted a bonding evaluation between Edward and each child. Dr. Lee performed similar bonding evaluations between the children and

their respective resource parents. He testified regarding these bonding evaluations during the trial.

The Division filed guardianship complaints for Tanya and Angela on December 31, 2020, and May 13, 2021, respectively. Nina surrendered her parental rights to Tanya on December 3, 2021. Carol surrendered her parental rights to Angela on January 11, 2022.

On August 27, 2021, Tanya and Angela's cases were consolidated for trial. After a six-day trial where Dr. Lee, the Division caseworker, the resource parents, Tammy, and Bonny testified as witnesses, the court issued two judgments of guardianship terminating Edward's parental rights to each child for reasons detailed in the record, finding the Division proved the four prongs of N.J.S.A. 30:4C-15.1(a) by clear and convincing evidence. This appeal followed.

II.

We review a family court's decision to terminate parental rights to determine whether "the decision . . . is supported by substantial and credible evidence on the record." N.J. Div. of Youth & Fam. Servs. v. F.M., 211 N.J. 420, 448 (2012) (internal quotation marks and citations omitted). We defer to the factual findings of the family court, due to that court's special expertise in family matters, and the inadequacies of a cold record. Ibid. "We will not

overturn a family court's fact-finding's unless they are so 'wide of the mark' that our intervention is necessary to correct an injustice." Ibid. (quoting N.J. Div. of Youth & Fam. Servs. v. G.L., 191 N.J. 596, 605 (2007)). We review issues of statutory interpretation de novo. McGovern v. Rutgers, 211 N.J. 94, 108 (2012).

Pursuant to the United States and New Jersey constitutions, parents have an undeniable, fundamental right to care for their children. See Santosky v. Kramer, 455 U.S. 745, 753 (1982); In re Guardianship of K.H.O., 161 N.J. 337, 346 (1999). The right to maintain a parent-child relationship, however, is not absolute; "[a] child is not chattel in which a parent has an untempered property right." N.J. Div. of Youth and Fam. Servs. v. C.S., 367 N.J. Super. 76, 110 (App. Div. 2004). As in any parental rights legal proceeding in New Jersey, the right of a parent to raise his child must be balanced with the "State's parens patriae responsibility to protect the welfare of children." K.H.O., 161 N.J. at 347. Children also have rights, including the right to a permanent, safe, and stable placement. C.S., 367 N.J. Super. at 111.

The essence of a termination of parental rights determination, therefore, is reconciling the conflict between a parent's constitutional right to a relationship with his children and the child's right to a permanent, safe, and stable home. See

K.H.O., 161 N.J. at 346; C.S., 367 N.J. Super. at 11. N.J.S.A. 30:4C-15.1(a)(1) to (4) sets forth the four-pronged legal analysis applied to determine whether it is in the best interests of a child for her parent's parental rights to be terminated. These four prongs "are not discrete and separate" and "they relate to and overlap with one another to provide a comprehensive standard[.]" K.H.O., 161 N.J. at 348. Application of the statute delineates whether termination of parental rights is in a child's "best interests" as follows:

> 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 [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 the 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).]

To prevail, the Division must establish each prong by "clear and convincing" evidence. N.J. Div. of Youth & Fam. Servs. v. A.W., 103 N.J. 591,

612 (1986). Given the paramount issue involved in a termination proceeding, "[w]e are mindful that cases of this nature are extremely fact-sensitive." C.S., 367 N.J. Super. at 112; K.H.O., 161 N.J. at 348.

With respect to prong one, although neither Tanya nor Angela was physically removed from Edward's care and he never had an opportunity to parent either of them, there is no dispute Edward was not in a position to take custody of either child upon removal from their respective mothers. When Tanya was born, Edward failed a drug test after lying about drug usage to the Division and posed an unacceptable risk of harm to Tanya due to his drug usage and unaddressed anger issues. When Angela was born, he had not addressed these issues, was incarcerated, and unable to propose a parenting plan for a relative or friend to take temporary custody of either child until he resolved these significant concerns. Although his mother and sister initially sought custody of Tanya, neither were able to demonstrate how they would provide for her financially, and Edward did nothing to demonstrate they were able to do so, or that he was able to help financially. Even when given the limited opportunity to parent at supervised visitation, Edward refused to engage in the simple parenting act of changing Tanya's diaper or learning about her medical needs.

The trial court correctly found Edward's substance abuse, criminal history, and anger issues were "concerning as to his ability to adequately be responsible to the needs of his children." Furthermore, the court also concluded "there hadn't been any type of progress in the services that had been requested of [Edward] or [in] resolving the concerns that the Division had to really move toward any type of reunification" since the Division gained custody. Although Edward was incarcerated awaiting trial for Angela's entire life, the trial court found relevant that he made little progress on the programs the Division offered prior to his incarceration.

It is noteworthy that the first prong "addresses the risk of future harm to the child as well as past physical and psychological harm." N.J. Div. of Youth & Fam. Servs. v. H.R., 341 N.J. Super. 212, 222 (App. Div. 2013). When faced with a threat to a child's health, safety or welfare, the Division need not wait until the harm has already occurred before acting in its protective role. In re Guardianship of D.M.H., 161 N.J. 365, 383 (1999). Moreover, "[s]erious and lasting emotional or psychological harm to children as the result of the action or inaction of their biological parents can constitute injury sufficient to authorize the termination of parental rights." In re Guardianship of K.L.F., 129 N.J. 32, 44 (1992) (citing In re Guardianship of J.C., 129 N.J. 1, 18 (1992)). "A parent's

withdrawal of . . . solicitude, nurture, and care for an extended period of time is in itself a harm that endangers the health and development of the child." D.M.H., 161 N.J. at 379. "Courts need not wait to act until a child is actually irreparably impaired by parental inattention or neglect." Id. at 383.

The record is replete with evidence Edward was not in any position to physically parent either child when she was born or throughout the time each of his daughters was in resource care. He was also unable or unwilling to provide any financial assistance that would have allowed his sister and mother to take custody of Tanya. A child's unfulfilled need for a permanent home is a harm in itself. See New Jersey Div. of Youth & Fam. Servs. v. B.G.S., 291 N.J. Super. 582, 591-92 (App. Div. 1996). The Division proved Edward harmed Tanya and Angela by failing to provide a permanent home by clear and convincing evidence.

With respect to prong two, the court correctly found Edward had failed to rectify the circumstances that caused either child to be placed in resource care instead of with him. Specifically, Edward's failure to make progress on court-ordered services from November 2019 through March 2020, and subsequent failure to engage in services during his incarceration, demonstrated an inability to eliminate the harm by not addressing these concerns. Edward's incarceration

prevented him from providing a safe and stable home for the children. While a parent's incarceration alone cannot serve to terminate parental rights, it is a material factor in the analysis. See N.J. Div. of Youth and Fam. Servs. v. R.G., 217 N.J. 527, 556 (2014); In re Adoption of Children by L.A.S., 134 N.J. 127, 143 (1993). Imprisonment necessarily limits a parent's ability to perform "regular and expected parental functions," may serve to frustrate the development of emotional bonds, and may also be a "substantial obstacle to achieving permanency, security, and stability in the child's life," N.J. Div. of Youth & Family Servs. v. S.A., 382 N.J. Super. 525, 534 (App. Div. 2006), warranting the trial court to make a broad inquiry bearing on incarceration and criminality.

In this particular matter, Edward's ongoing incarceration for unresolved criminal charges contributed to his daughters' placement in resource care but was not the sole issue preventing Edward from parenting them. Dr. Lee's uncontroverted expert testimony, on which the trial court relied, was that even if Edward was absolved of all criminal charges and immediately released, he could not recommend the children be placed with Edward because of his "heightened risk for substance abuse relapse, criminal recidivism, and interpersonal conflicts" and his prognosis for change was "poor." He

specifically noted Edward's parenting deficits presented a heightened risk to both children and particularly to Tanya, who has special medical needs that Edward has been unwilling to acknowledge or discuss.

With respect to prong three, the Division was required to make "reasonable efforts to provide services to help the parent correct the circumstances which led to the child's placement outside the home[.]" N.J.S.A. 30:4C-15.1(a)(3). This prong "contemplates efforts that focus on reunification of the parent with the child and assistance to the parent to correct and overcome those circumstances that necessitated the placement of the child into [resource] care." K.H.O., 161 N.J. at 354. "Whether particular services are necessary in order to comply with the [reasonable] efforts requirement must . . . be decided with reference to the circumstances of the individual case before the court, including the parent's participation in the reunification effort." D.M.H., 161 N.J. at 390. The Division's efforts are "not measured by their success." Id. at 393.

The trial court correctly determined the Division demonstrated reasonable efforts by making referrals for substance abuse treatment and anger management counseling, administering random drug screening, facilitating supervised visitation, encouraging Edward to seek services while incarcerated, facilitating visitation between Tanya and Tammy, and attempting to maintain visitation

between Edward and the girls during his incarceration. Although visitation in prison was hampered by the Covid-19 pandemic, it is clear there was a period of time Edward did not wish the children to visit him in jail. Also, even when Edward had visitation with Tanya prior to incarceration, he did not avail himself of it. The court noted the Division's efforts had little impact on Edward's behavior and, in fact, led to "further demonstration of really concerning behavior[.]"

The court highlighted the Division adequately considered reasonable alternatives by assessing numerous individuals,[2] most notably Tammy and Bonny, for placement. The court found both Tammy and Bonny failed to follow up throughout the process and "express their willingness to be options for the[] children[.]"

The court correctly noted it was too late for Tammy to testify at trial that she now had income to support Tanya when she could have petitioned the court for custody or the Division for placement when she first secured her employment. The court viewed Tammy's failure to report to the ICPC or court

[2] Edward contests only the consideration of Tammy and Bonny, however, the Division did pursue other relatives, such as Edward's brother J.P. and aunt L.P. Despite Edward naming them as his plan for relative placement, neither responded to the Division's numerous efforts to contact them.

with news of her employment as evidence of her unwillingness to take responsibility for Tanya. The court noted the resource parents have taken considerable efforts to familiarize and address the particularized needs of both children, including their need to bond with each other, need for stability and Tanya's special medical needs, and it would be inappropriate to consider Tammy an option at the eleventh hour.

The court acknowledged Bonny testified credibly and provided evidence that the abuse or neglect history she had was expunged. Nonetheless, Bonny's failure to properly contact the Division regarding the expungement was troublesome to the court. The court found her inactivity, particularly never requesting visitation, to also display an unwillingness to obtain custody.

Prong three also requires the Division to demonstrate it explored alternatives to the termination of parental rights. N.J.S.A. 30:4C-15.1(a)(3). "[A]ssessment of relatives is part of the Division's obligation to consult and cooperate with the parent in developing a plan for appropriate services that reinforce the family structure." N.J. Div. of Youth & Fam. Servs. v. K.L.W., 419 N.J. Super. 568, 583 (App. Div. 2011).

Edward claims the KLG Act's recent amendment and the removal of language from N.J.S.A. 30:4C-15.1(a)(2) requiring courts to consider the harm

that occurs from severing a child from their resource parents, compare L. 2015, c. 82, § 3 with L. 2021, c. 154, § 9, is evidence of the Legislature's clear preference for KLG over adoption in termination proceedings. He asserts the resource parent's opinions on KLG are irrelevant now as the new statutory scheme indicates it will be the default solution and, pursuant to New Jersey Division of Child Protection & Permanency v. M.M., only the trial court may decide whether KLG serves the child's best interests. 459 N.J. Super. 246, 261 (App. Div. 2019). Edward maintains the trial court failed to make this determination, noting only that Angela's resource mother sincerely wanted to adopt, and KLG was considered based on the testimony of the resource parents.

Edward argues a KLG arrangement with Tammy and Bonny is viable because Tammy knows Tanya through visitation and is familiar with her medical needs. Edward also claims Bonny was erroneously rejected as she proffered uncontroverted evidence at trial that the adverse SCR entry, which caused her to be rejected by the ICPC, was expunged. Edward further claims KLG arrangements are possible with the children's resources parents even if placement with Tammy or Bonny is not feasible. Edward contends this would be the best scenario as it would leave the children in the hands of their resource parents, while preserving his parental rights. He claims trial courts can now

provide solutions that prefer kinship care, including going against the resource parents' wishes to adopt rather than KLG.

Edward's understanding of the amendments to the KLG Act and N.J.S.A. 30:4C-15.1(a)(2) are incorrect. Edward's interpretation is based on the Legislature eliminating language in N.J.S.A. 30:4C-15.1(a)(2) on July 2, 2021.[3] The Legislature removed from the court's consideration "[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." The Legislature also simultaneously removed language from the KLG statute at N.J.S.A. 3B:12A-6(d)(3) requiring the court consider KLG as an option only when "adoption of the child is neither feasible nor likely." Compare L. 2006, c. 47, § 32 with L. 2021, c. 154, § 4.

Removing the KLG Act's requirement that a court find adoption "neither likely nor feasible" before granting KLG is a factor in a determination as to whether KLG is an appropriate permanency option. The KLG statute has no application to a termination of parental rights trial. The amendment to the KLG statute now ensures a resource parent's willingness to adopt no longer forecloses the possibility of KLG at the time the permanency plan is selected by the court.

[3] The amendments to the KLG statute explicitly became effective the same day.

The enacted law does not make KLG the preferred permanency outcome over adoption simply because it removed the requirement that adoption be unfeasible or unlikely but rather put the two in equipoise.

Evidence that establishes a resource parent's clear and informed preference for adoption remains relevant in a termination of parental rights proceeding to a trial court's finding that there are no reasonable alternatives to termination of parental rights and termination will not do more harm than good. Because the legal analysis in the KLG statute is separate and distinct from the best interests test articulated in N.J.S.A. 30:4C-15.1(a), the considerations of delay in achieving permanency, alternatives to termination, and more harm than good must still be considered pursuant to the unchanged plain text of N.J.S.A. 30:4C-15.1(a)(2)-(4). The only amendment to N.J.S.A. 30:4C-15.1(a) occurred in prong two, which no longer requires the court weigh the potential harm caused by severing the bond between a child and her resource parent in its determination of whether delay of permanent placement will add to the harm facing the child. If the Legislature wanted to make kinship legal guardianship preferred over termination of parental rights, it clearly could have done so in the statutory text of the termination statute when it made these other revisions to both statutes. Because it did not, the Division still must prove delay of permanent placement

will add to the harm to the child, 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)-(4).

Both children's resource parents testified they wished to adopt, and their decisions were based on understanding the differences between adoption and KLG. Their testimonies were unequivocal, and Edward did not cross-examine them with respect to their testimony. Therefore, they satisfied the requirements of M.M. in their "unequivocal" willingness to adopt based on an informed decision and understanding of the differences between KLG and adoption, and this finding is granted our deference because it is based on the trial court's evaluation of facts and the conclusions drawn from them. 459 N.J. Super. at 26. Moreover, contrary to Edward's assertion, KLG with the resource parents is not possible without their consent. As with adoption, a court cannot order a non-biological parent to enter into a particular parenting relationship unless the parent is desirous of that relationship and Edward can find no support in the law for the premise that the court may force a resource parent into a KLG relationship.

Edward's arguments concerning KLG with Tammy and Bonny are similarly misguided. Tammy and Bonny both failed to keep the Division

updated on changes to their circumstances which could lead to a positive ICPC assessment. Tammy never provided the promised evidence that her son's father would support Tanya or evidence of financial support and new ICPC assessments now would only further delay permanency for the children. Also, neither Tammy nor Bonny is adequately informed about Tanya's special needs.

The Division properly ruled out both Tammy and Bonny through the ICPC process. Bonny never informed the Division of the expungement of her record and, consequently, was not reconsidered. Tammy testified she began receiving income but never reapplied for custody of Tanya. Finally, KLG with the resource parents is not possible because they made an informed decision to adopt after considering all options and do not wish to maintain a KLG relationship involving Edward. Therefore, the Division proved they properly explored alternatives to terminating Edward's parental rights and none of the alternatives were sufficient.

Lastly, with respect to prong four, the trial court properly considered the uncontroverted expert testimony of Dr. Lee, who opined neither child had a bond with Edward and terminating his parental rights would not cause additional harm.

To the extent we have not addressed them, any remaining arguments raised by Edward 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