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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NOS. A-3506-21
A-3508-21

NEW JERSEY DIVISION OF
CHILD PROTECTION AND
PERMANENCY,

Plaintiff-Respondent,

v.

F.N.C. and T.E.F., SR., a/k/a
T.E.F.,

Defendants-Appellants.

IN THE MATTER OF THE
GUARDIANSHIP OF T.T.F.,
a minor.

Submitted May 17, 2023 – Decided June 30, 2023

Before Judges Firko and Natali.

On appeal from the Superior Court of New Jersey,
Chancery Division, Family Part, Essex County, Docket
No. FG-07-0071-21.

Joseph E. Krakora, Public Defender, attorney for appellant F.N.C. (Kathleen Gallagher, Designated Counsel, on the briefs).

Joseph E. Krakora, Public Defender, attorney for appellant T.E.F., Sr. (Catherine W. Wilkes, Assistant Deputy Public Defender, of counsel and on the briefs).

Matthew J. Platkin, Attorney General, attorney for respondent (Donna Arons, Assistant Attorney General, of counsel; Amy Melissa Young, Deputy Attorney General, on the brief).

Joseph E. Krakora, Public Defender, Law Guardian, attorney for minor (Meredith Alexis Pollock, Deputy Public Defender, of counsel; Todd S. Wilson, Designated Counsel, on the brief).

PER CURIAM

In this consolidated matter, defendants F.N.C. (Fara), and T.E.F. (Tom) challenge a final judgment terminating their parental rights to their son, T.T.F. (Tyler), now five years old.¹ They contend the Division of Child Protection and Permanency (the Division) failed to prove prongs three and four of the best-interests-of-the-child standard of N.J.S.A. 30:4C-15.1(a)(3) and (4) by clear and convincing evidence. The law guardian for Tyler joins with the Division in urging we affirm the judgment. Having considered defendants' arguments in

¹ We use fictitious names and, at times, initials in our opinion to protect the child's identity and because records relating to Division proceedings held pursuant to Rule 5:12 are excluded from public access under Rule 1:38-3(d)(12).

light of the record and controlling law, we affirm the termination of their parental rights.

I.

The facts are fully set forth in the trial court's thirty-six page written opinion and we need not repeat them here. We summarize only that portion of the trial record necessary to place our decision in context.

Tyler was born in August 2018, and was removed from Fara's and Tom's care because they failed to comply with recommended services and because their housing was unstable. Following his removal, Tyler was placed with his current resource parent, Ms. J.

Prior to Tyler's birth, the Division was already involved with Fara and Tom for several years regarding their other two children, T.F. (Tim) and R.F. (Rose). Tim and Rose are not involved in this appeal. While the two children were initially placed in Tom's care, they were removed in March 2018 as he could not provide them with stable housing. They were placed with their paternal aunt, L.G. (Latoya), and their paternal grandmother, C.G. (Cindy).

During its involvement with Fara and Tom, the Division attempted to assist them in overcoming the conditions that led to Tyler's removal. Both Tom and Fara engaged in a variety of intensive out-patient drug treatment programs

resulting, however, in only temporary reprieves from what appear to be their unrelenting addiction problems. Specifically, the Division referred Fara to The Appropriate Place for substance abuse treatment, anger management, and parenting classes, though she was eventually discharged "due to noncompliance." It also referred her to a program at St. Michael's Medical Center in Newark, where she was unwilling to participate in its suggested in-patient programming and was discharged again for noncompliance. The Division also oversaw supervised visitation for both Tom and Fara and referred them to support services for mental health, parenting classes, and housing assistance.

There were times when both Fara and Tom made positive strides in their recovery. By way of example, Fara began many of the substance abuse programs with satisfactory participation and appropriate progress. Tom successfully completed parenting programs, as well as an outpatient substance abuse treatment at Integrity House in December 2019. Further, following a prior guardianship trial in March 2020, the court approved a reunification plan for Tyler and Tom as it found Tom possessed "stable housing and completed substance abuse treatment and parenting skills training."

Upon notification of the permanency plan to reunify Tyler with Tom in March 2020, Ms. J. requested Tyler's removal from her home and she moved out of state. As a result, Tyler was placed in Latoya's home with his siblings. Latoya made it known to the Division, however, that she was uncomfortable with Tom coming to her house.

Reunification of Tyler and Tom failed to come to fruition, due to Tom's relapse as well as his arrest for purchasing heroin. Tyler therefore continued to reside with Latoya until January 2021, when she obtained a restraining order against Tom because he entered her home without her permission and left her a threatening voicemail. As a result of Tom's actions, Latoya requested Tyler's removal from her residence.

About a month later, Tyler was placed with Ms. J. again as she had returned to New Jersey. Nonetheless, the Division continued to explore alternative placement options suggested by defendants, including an individual, Ms. B., who had been ruled-out in 2019 because she was not permitted to "have any additional children placed in her home."² In April 2021, however, the Division ruled-out Ms. B. again, because Tyler was "currently in the home of a

² Initially, Fara and Tom represented to the Division and the court that Ms. B. was a relative, a fact the Division later learned to be incorrect.

caregiver with whom he is bonded, and with whom he has a relationship," and further explained Tyler was "familiar with his current home environment" and relocating him would likely negatively affect him. Ms. B. did not appeal the rule-outs administratively nor did she contact the Division, and Tom and Fara continued to communicate to the Division their desire that Tyler be placed with her.

Leading up to the second guardianship trial, both Fara and Tom continued to test positive for illicit substances, despite participation in substance abuse programs. Defendants also participated in psychological and bonding evaluations with Tyler by a Division expert, Dr. Mark Singer, who also testified at trial.

Dr. Singer acknowledged that both defendants and Tyler had significant bonds with each other, and Tyler viewed them as "significant parental figure[s]." According to the doctor, despite those bonds, Fara and Tom were unlikely to be viable parenting options for Tyler in the foreseeable future based on both of their struggles with substance abuse, including Fara's pattern of noncompliance and resistance to Division services and Tom's denial of the extent of his addiction. Dr. Singer further opined it was significant that neither parent had been able to achieve "full remission" of their addictions, which he defined as twelve months

of sobriety, which also affected their emotional ability to parent Tyler. In sum, Dr. Singer testified neither parent would be able to provide the necessary stability Tyler required.

While he conceded Tyler would experience a negative reaction to the severance of his relationship with defendants, Dr. Singer testified "other factors in [Tyler]'s environment . . . would likely mitigate that loss." Specifically, the doctor explained that because Ms. J. was also functioning as Tyler's "psychological parent," their relationship "would serve as a mitigating factor should [Tyler] lose the relationship with either of his biological parents."

Conversely, Dr. Singer stated neither Tom nor Fara would be able to mitigate Tyler's harm if he was removed from Ms. J.'s care, and removal would cause Tyler to "regress emotionally and behaviorally." Finally, it was the doctor's expert opinion that termination of defendants' parental rights would "do more good than harm," as it would allow Ms. J. to adopt Tyler, which was the "appropriate call" rather than Kinship Legal Guardianship (KLG).

Both Fara and Tom presented their own experts at the trial who also conducted bonding evaluations but did not conduct psychological evaluations. Fara called Dr. Beata Beaudoin, an expert in the field of neuropsychology,

psychology, child welfare and bonding, and Tom called Dr. Andrew Brown III, an expert in psychology.

Dr. Beaudoin testified Tyler possessed a "strong bond" with Fara, but conceded any harm suffered by him from his separation with Fara would be lessened by the presence of Ms. J. She disagreed, however, with Dr. Singer's analysis that Tyler would regress if removed from Ms. J. and she firmly believed termination of Fara and Tyler's relationship would do more harm than good.

Dr. Brown similarly testified it would not be in Tyler's best interest to terminate or sever his contact with Tom. Specifically, Dr. Brown described their relationship to be "extremely positive" as it included both a "significant" and "secure" bond, and the ramifications of its severance could lead to trauma because Tom is "such a centralized figure" in Tyler's life. Although Dr. Brown conceded Tyler is also attached to Ms. J., he disagreed with Dr. Singer's conclusion that she could mitigate any harm caused by the severance of Tyler's and Tom's relationship, stating it was "a socially irresponsible myth" because children will always undergo trauma "when contact is severed with a centralized parenting figure whom they are attached to."

Ms. J. testified she did not have a relationship with either Fara or Tom, but if she adopted Tyler, she would consider supervised contact with defendants

"if it was appropriate" and at her discretion. In addition, she stated she regretted her initial decision to request Tyler's removal from her home but explained she did not fully understand the implications of that decision at the time or the court's determination to grant reunification with Tom following the first guardianship trial. Ms. J. stressed she "never lost . . . the love" she had for Tyler, and while she contemplated KLG, she was not interested in that alternative as she only wanted to adopt Tyler.

The assigned Division caseworker similarly testified Ms. J. was only interested in adoption, although both KLG and adoption were explained to her. The caseworker also testified Ms. B. was ruled-out as a resource parent twice, once because her home "was suspended" and again because the Division determined it was in Tyler's best interest to remain in his current placement.

Based on the facts adduced at trial and her assessments of the credibility of the testifying witnesses, the judge found the Division established all four prongs of the best-interests-of-the-child standard by clear and convincing evidence. The judge found Fara and Tom harmed Tyler by failing "to provide [him] with a safe and stable environment" because of their unremitting substance abuse, which prevented them both from becoming "viable parenting option[s]" for Tyler in the "foreseeable future." The judge further found the failure of

defendants to remediate their drug problems despite being offered "ample time" and resources, their overall non-compliance in programs, and unstable living situations, demonstrated that Tyler's "safety, health, and development will be endangered by the parental relationship[s]," and the harm inflicted is "likely to have a continuing deleterious effect."

Cataloging the "plethora of services offered to [the] family over the course of four years," the judge concluded the Division met its obligation to provide services needed to correct the conditions that led to Tyler's placement. The judge also found the Division had explored, without success, alternatives to termination, as it "assessed individuals . . . identified as resources, but [all] were eventually ruled[-]out." On this point, the judge noted the Division not only placed Tyler with a relative, but also with his siblings, and it was Tom's own "behavior arising out of [Tyler] being placed with [Latoya]," which led to the restraining order and Tyler's subsequent removal.

Finding Ms. J. well-informed of the difference between KLG and adoption, the judge noted Ms. J. "consistently expressed her preference and commitment to only adopting" Tyler. The judge found based on Ms. J's commitment to adoption, KLG was not "feasible or likely," relying on N.J. Div. of Youth & Fam. Servs. v. T.I., 423 N.J. Super. 127, 130 (App. Div. 2011).

Finally, the judge concluded under prong four of the best-interests-of-the-child standard that termination of defendants' parental rights would not do more harm than good. The judge acknowledged the experts testified to a bond between Tyler, defendants, and Ms. J., respectively, but the judge ultimately credited Dr. Singer's evaluation and conclusions that although Tyler "would have a negative reaction to the loss of his relationship with his biological parents . . . , allowing [Tyler] to maintain his relationship with Ms. J. would mitigate that harm and thereby avoid creating significant enduring harm," as she has been the "accessible, consistent caregiver over time."

The judge also found that if Tyler lost his relationship with Ms. J., he would "have a significant reaction" and it would cause him trauma due to the creation of uncertainty in his life and based on the fact he already experienced multiple placements. The judge determined Tyler's separation from Ms. J. would result in his regression both "emotionally and behaviorally" and afforded "significant weight" to the psychological evaluations conducted by Dr. Singer which suggested "both parents would have difficulty mustering the emotional resources" which were necessary "to meet the challenges of parenting." Although she acknowledged Ms. J. requested Tyler's removal in 2020, the judge found it significant that Tyler previously resided with her in a positive

environment, and concluded termination would not do more harm than good as it allowed Tyler "to be adopted by a family who is committed to permanency, who is meeting all of his needs, and is a family [with whom Tyler] has spent a majority of his life since birth." These consolidated appeals followed.³

II.

Before us, both Fara and Tom argue the Division failed to prove by clear and convincing evidence prongs three and four of the best-interests-of-the-child standard.⁴ Regarding prong three, defendants argue the judge failed to consider Ms. B. as a KLG contrary to the July 2021 amendments to the statutes governing termination of parental rights and KLG proceedings. Fara specifically contends the Division improperly ruled her out as it based its decision solely on Tyler's bond with Ms. J. and not because Ms. B. was "unwilling or unable," to care for

³ Following her decision, the judge determined both Tom's and Fara's visitation would continue during the pendency of the appellate process.

⁴ Neither Fara nor Tom contest the court's factual findings and legal conclusions under prongs one and two. Accordingly, we could consider any contentions regarding these findings waived. See Pressler & Verniero, Current N.J. Court Rules, cmt. 5 on R. 2:6-2 (2023) ("[A]n issue not briefed is deemed waived."); Telebright Corp. v. Dir., N.J. Div. of Taxation, 424 N.J. Super. 384, 393 (App. Div. 2012) (deeming a contention waived when the party failed to include any arguments supporting the contention in its brief). We have nevertheless reviewed the judge's prong one and two findings and are satisfied they are supported by substantial, credible evidence in the record and the judge's legal conclusions unassailable.

Tyler as required by the statute, N.J.S.A. 30:4C-12.1(b). Fara also argues Tyler's placement with Ms. J. is contrary to public policy because Ms. J. "is not committed to allowing contact between [Tyler] and his parents." Finally, Fara argues the judge's conclusion under prong three is flawed as she relied upon T.I., 423 N.J. Super. at 130, for the proposition that KLG was "neither feasible nor likely" for Tyler as Ms. J. preferred adoption, and because the judge failed to determine whether Ms. J. should be required to enter into KLG or adoption based on Tyler's best interests.

Tom further argues the record is devoid of any evidence the Division discussed KLG with Ms. B., and she should have received preference over Ms. J. because Ms. B. would allow defendants to maintain a relationship with Tyler. Similar to Fara, Tom maintains Ms. B.'s rule-out was improper because: it was erroneously based on the amount of time Tyler spent with Ms. J.; arguing the child's best interest cannot be "measured by the amount of time the child is in foster care"; and the judge relied upon T.I.

As noted, both defendants also argue the Division failed to prove by clear and convincing evidence that termination of their rights would not do more harm than good to Tyler as required under prong four. Fara maintains the expert testimony presented at trial established Tyler possesses "a significant, secure

attachment to [her], and he will suffer harm if their relationship is severed." Although Fara concedes she has "struggled with her sobriety throughout this litigation" she contends her bond with Tyler was maintained through consistent visitation and therefore, he should not be separated from her.

In addition, Tom argues the judge relied incorrectly on N.J. Div. of Youth & Fam. Servs. v. I.S., 202 N.J. 145, 181 (2010), as she "fail[ed] to give the proper weight to consideration of the harm from the termination of [his] parental rights." He further argues there was no evidence that Tyler would suffer serious and enduring harm from his separation from Ms. J., as Dr. Singer's testimony was purely "speculative." Finally, Tom claims the Division did not prove by clear and convincing evidence that Ms. J. would be able to mitigate the harm caused by his separation from Tyler, as evidenced by his past negative reactions when separated from him. We disagree with all of defendants' arguments.

III.

Our review of a trial court's decision to terminate parental rights is limited. N.J. Div. of Youth & Fam. Servs. v. F.M., 211 N.J. 420, 448-49 (2012). "A Family Part's decision to terminate parental rights will not be disturbed when there is substantial credible evidence in the record to support the court's findings." N.J. Div. of Child Prot. & Permanency v. K.T.D., 439 N.J. Super.

363, 368 (App. Div. 2015) (citing F.M., 211 N.J. at 448). Our Supreme Court has noted in respect to termination of parental rights cases, "a trial court's factual findings 'should not be disturbed unless they are so wholly unsupportable as to result in a denial of justice.'" N.J. Div. of Youth & Fam. Servs. v. P.P., 180 N.J. 494, 511 (2004) (quoting In re Guardianship of J.N.H., 172 N.J. 440, 472 (2002)).

"We accord deference to fact[]findings of the family court because it has the superior ability to gauge the credibility of the witnesses who testify before it and because it possesses special expertise in matters related to the family." F.M., 211 N.J. at 448. This enhanced deference is particularly appropriate where the court's findings are founded upon the credibility of the witnesses' testimony. N.J. Div. of Youth & Fam. Servs. v. H.B., 375 N.J. Super. 148, 172 (App. Div. 2005) (citing Rova Farms Resort, Inc. v. Invs. Ins. Co. of Am., 65 N.J. 474, 484 (1974)).

"Only when the trial court's conclusions are so 'clearly mistaken' or 'wide of the mark' should an appellate court intervene and make its own findings to ensure that there is not a denial of justice." N.J. Div. of Youth & Fam. Servs. v. E.P., 196 N.J. 88, 104 (2008) (quoting N.J. Div. of Youth & Fam. Servs. v. G.L., 191 N.J. 596, 605 (2007)). No deference is given to the trial court's

"interpretation of the law," which we review de novo. D.W. v. R.W., 212 N.J. 232, 245-46 (2012).

A parent has a constitutionally protected right "to enjoy a relationship with his or her child" In re Guardianship of K.H.O., 161 N.J. 337, 346 (1999). That right, however, "is not absolute" and is limited "by the State's parens patriae responsibility to protect children whose vulnerable lives or psychological well-being may have been harmed or may be seriously endangered by a neglectful or abusive parent." F.M., 211 N.J. at 447. Thus, a parent's interest must, at times, yield to the State's obligation to protect children from harm. N.J. Div. of Youth & Fam. Servs. v. G.M., 198 N.J. 382, 397 (2009).

When terminating parental rights, the court must consider the "best interests of the child" K.H.O., 161 N.J. at 347. A petition to terminate parental rights may be granted only if the following four prongs enumerated in N.J.S.A. 30:4C-15.1(a) are established by clear and convincing evidence:

- (1) The child's safety, health, or development has been or will continue to be endangered by the parental relationship;
- (2) The parent is unwilling or unable to eliminate the harm facing the child or is unable or unwilling to provide a safe and stable home for the child and the delay of permanent placement will add to the harm;

(3) The [D]ivision has made reasonable efforts to provide services to help the parent correct the circumstances which led to the child's placement outside the home and the court has considered alternatives to termination of parental rights; and

(4) Termination of parental rights will not do more harm than good.

[N.J.S.A. 30:4C-15.1(a)(1) to (4).]

"The four criteria enumerated in the best interests standard 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. "[T]he cornerstone of the inquiry [under N.J.S.A. 30:4C-15.1(a)] is not whether the biological parents are fit but whether they can cease causing their child harm." In re Guardianship of J.C., 129 N.J. 1, 10 (1992).

IV.

A. Prong Three

Initially, we note our agreement with both Fara and Tom that the judge erred in finding KLG was not "feasible or likely" based on Ms. J.'s willingness to adopt. We are satisfied, however, the court's error does not warrant reversal, as we review orders and judgments, not opinions, Hayes v. Delamotte, 231 N.J. 373, 387 (2018) (it is "well settled . . . appeals are taken from orders and judgments" and not a court's oral or written decisions), and the judge clearly

determined KLG was not a viable alternative to termination of defendants' parental rights because the Division ruled-out individuals such as Ms. B., attempted other relative placements, and because Ms. J. fully informed of the alternatives, was interested in adoption only. The court's findings are amply supported by the record.

In July 2021, the Legislature enacted amendments to various sections of Title 9, governing acts of child abuse and neglect, Title 30, governing termination of parental rights proceedings, and Title 3B, governing KLG proceedings. L. 2021, c. 154. The amendments, which strengthened the position of kinship caregivers, altered the KLG analysis. See id.; N.J. Div. of Child Prot. & Permanency v. D.C.A., 474 N.J. Super. 11, 27 (App. Div. 2022).

Prior to the amendments, N.J.S.A. 3B:12A-6(d)(3) required a determination by clear and convincing evidence that adoption was neither feasible nor likely before awarding KLG. The 2021 amendment deleted that condition, making KLG an equally available permanency plan for children in Division custody, like Tyler. L. 2021, c. 154, § 4; N.J.S.A. 3B:12A-6(d)(3). However, the Legislature did not delete paragraph (d)(4) of the KLG statute, which requires a court to find "awarding [KLG] is in the child's best interest," N.J.S.A. 3B:12A-6(d)(4), before it can order KLG. Thus, the amended KLG

statute simply ensures a resource parent's willingness to adopt no longer forecloses KLG. But the amendment to N.J.S.A. 3B:12A-6(d)(3) does not affect the trial court's application of the best interests test for parental termination cases as codified under N.J.S.A. 30:4C-15.1(a)(1) to (4).

Ms. J.'s decision to pursue only adoption of Tyler was made after receiving adequate information from the Division regarding the differences between KLG and adoption, as evidenced by both her own testimony and that of the Division caseworker. Further, the court correctly found the Division pursued viable alternative placements, as Tyler was placed with Latoya and his siblings in 2020. As a result of Tom's actions, however, Latoya obtained a restraining order against Tom and requested Tyler's removal.

We are further satisfied with the judge's finding that the Division pursued alternatives to termination of defendants' parental rights, because the record does not establish Ms. B. was committed to KLG for Tyler or was an appropriate KLG alternative in any event. Although there is evidence defendants referred Ms. B. to the Division as a possible placement for Tyler, the Division evaluated her twice and ruled her out, the first time because her home was unable to accept children and the second time because of Tyler's best interests, as evidenced by the Division caseworker's testimony and the April 2021 rule-out letter. We also

note, Ms. J. explained she was amenable to allowing continued contact, at her discretion, between Tyler and defendants.

In addition, we disagree with defendants' arguments that the Division erred in its rule-out of Ms. B. by placing improper weight on the relationship between Ms. J. and Tyler. We recognize, based on the April 2021 rule-out letter, the Division relied in part on the bond between Tyler and Ms. J., but a more complete review of that letter reveals the Division also relied on its concern regarding the possible harm that would befall Tyler if he was relocated from a stable home to a fourth placement with a non-relative. In sum, it is clear the Division's rule-out determination rested on Tyler's best interests.

We also disagree with Fara's argument that the 2021 amendments to the KLG statute and Title 30 "only allow a kinship caregiver to be ruled-out if unwilling or unable to care for the child." We addressed a similar challenge in N.J. Div. of Youth & Fam. Servs. v. J.S., 433 N.J. Super. 69 (App. Div. 2013). In that case, the defendant argued the Division lacked the authority to rule-out two relatives on a best interests basis. We affirmed the trial court's termination of the defendant's parental rights and in doing so, held the applicable statutory provision, N.J.S.A. 30:4C-12.1, gave the Division authority to rule-out a relative

on "best-interests" grounds, regardless of the relative's willingness or ability to care for a child. Id. at 75.

Similarly, we do not read the 2021 amendments to eliminate the Division's authority to rule-out a potential caregiver based on the child's best interests, nor do we read the amendments to impose 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. We further note that, to accept this argument would contravene the well-established principle "the best interests of the child is the polestar in the implementation of a placement plan," Div. of Youth & Fam. Servs. v. D.H., 398 N.J. Super. 333, 338 (App. Div. 2008) (quoting In re L.L., 265 N.J. Super. 68, 77 (App. Div. 1993)).

B. Prong Four

We also find no error with the judge's finding the termination of defendants' parental rights "will not do more harm than good," N.J.S.A. 30:4C-15.1(a)(4), as it is supported by substantial credible evidence, K.T.D., 439 N.J. Super. at 368. As a preliminary matter, we agree with Tom that the judge misstated the holding of the I.S. court in her written opinion, specifically when the judge stated the analysis under prong four is "whether, after considering and balancing the two relationships, the child[ren] will suffer a greater harm from

the termination of ties with [their] relationship with [their] foster parents." But see I.S., 202 N.J. at 181 ("We have explained that 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 permanent disruption of her relationship with her foster parents." (internal citations omitted)). We consider the judge's incorrect quotation harmless, however, as the balance of the judge's analysis and findings demonstrated that the termination of defendants' rights would not inflict greater harm on Tyler than the severance of contact with Ms. J.

Here, the judge acknowledged all experts opined Tyler possessed a bond with Fara, Tom, and Ms. J., respectively. Dr. Singer, however, was the only individual to conduct psychological evaluations of defendants, in addition to his bonding evaluations. Therefore, it was well-within the judge's discretion to afford "significant weight" to his testimony, as he was the only expert that could speak to defendants' capabilities as parents and their inability to provide the necessary emotional resources, such as mitigating the harm suffered from Tyler's separation from Ms. J., due to their unrelenting substance abuse problems. See J.S., 433 N.J. Super. at 93.

We also find no error in the judge's finding of Tyler's need for permanency and stability and her determination that neither Fara nor Tom would be able to provide either in the foreseeable future. Although both parents have participated in substance abuse programs and Division services, they have failed to obtain one year of sobriety, and have been repeatedly discharged from programs due to their noncompliance. Further, both Tom and Fara continued to test positive for illicit substances leading up to the second guardianship trial, and they simply have not demonstrated themselves able or willing to overcome their struggles with addiction to provide Tyler with the permanency he needs and deserves.

At bottom, we are satisfied the judge correctly determined the Division presented clear and convincing evidence establishing all four prongs of the best-interests-of-the-child standard under N.J.S.A. 30:4C-15.1(a). To the extent we have not specifically addressed any of defendants' arguments it is because we have concluded they are of insufficient merit to warrant extended 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