Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2002-104

JUNE TERM, 2002

In re D.R., Juvenile	}	APPEALED FROM:
	}	Orleans Family Court
	}	DOCKET NO. 2-2-01 OsJV
	}	Trial Judge: John P. Meaker

In the above-entitled cause, the Clerk will enter:

Father appeals the family court's order terminating his parental rights (TPR) with respect to his daughter, D.R. We affirm.

D.R. was born on December 25, 2000. On February 3, 2001, six-week-old D.R. was taken to the hospital in an unresponsive state. Tests revealed that she had suffered severe brain trauma, internal bleeding, and retinal hemorrhages in both eyes. The parties at the ensuing juvenile proceeding stipulated that the family court could find D.R. to be a child in need of care or supervision (CHINS) based on affidavits submitted by the State. In its CHINS decision, the court found by clear and convincing evidence that the child's life-threatening injuries had been inflicted by father when he violently and repeatedly shook the child for the second time in a week. Father's assault on the infant left her severely and permanently disabled. The court also noted that D.R. was not the first child to suffer traumatic injury at father's hands. In 1998, father was found to have abused his infant son, who was taken to the hospital with a fractured leg and skull. Father voluntarily relinquished his residual parental rights to that child at disposition.

SRS filed a TPR petition in this case in July 2001, and a hearing was held in December 2001. Prior to that hearing, the mother had voluntarily terminated her residual parental rights to D.R. Father stipulated to the admission of SRS's documentary evidence, and offered no evidence of his own in opposition to the TPR petition. He argued, however, that if he were able to address his problems in prison programs, he might be ready to establish a relationship with D.R. within three years, so there was no need to rush toward termination of his residual parental rights. In its January 2002 decision, the court granted SRS's petition, concluding that father would be unable to parent D.R. in the reasonably foreseeable future. In reaching its decision, the court noted that father had failed to participate in services in the previous case involving his son, that since then he had been convicted of domestic abuse and had violated probation on a number of occasions, that he was currently incarcerated and thus incapable of participating in needed programming, that he had not demonstrated any ability to parent, that he continued to deny injuring D.R., that he had done nothing to address his significant problems since he was separated from D.R., and that any treatment at this point would be too late for a child that could not afford to wait.

On appeal, father has filed two briefs, one of them pro se. In his attorney's brief, he contends that the termination order must be reversed because he squarely raised the issue of whether SRS had provided him with reasonable assistance, and yet the court failed to determine either in its decision or the permanency review affidavit it signed that SRS had in fact made reasonable efforts toward reunification. We find no merit to this argument. Statutory law allows the court to terminate parental rights at initial disposition. See 33 V.S.A. 5531(d)(2); In re J.T., 166 Vt. 173, 177 (1997) (confirming

that court may terminate parental rights at initial disposition). As long as the four statutory criteria set forth in 33 V.S.A. 5540 are met, and the court's termination decision is supported by clear and convincing evidence, the court is not required to make specific findings on whether SRS made reasonable efforts toward reunification. See In re J.T., 166 Vt. at 180 (family court need not make specific findings as to whether SRS made reasonable efforts to assist parents because that is not one of statutory criteria required for termination). The lack or level of assistance provided by SRS to parents may be a factor in determining whether the Department met its burden of demonstrating that the parents will be unable to resume parental duties within a reasonable period of time, id., but in this case overwhelming evidence supported the court's termination decision. Father's pro se brief, in which he denies responsibility for his daughter's injuries and complains about a lack of support from SRS, does not help his cause.

Affirmed.

BY THE COURT:

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John A. Dooley, Associate Justice

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James L. Morse, Associate Justice

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Marilyn S. Skoglund, Associate Justice