

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

**ENTRY ORDER**  
SUPREME COURT DOCKET NO. 2008-397

VERMONT SUPREME COURT  
FILED IN CLERK'S OFFICE

MARCH TERM, 2009

MAR 5 2009

In re C.P., Juvenile

} APPEALED FROM:  
}  
} Bennington Family Court  
}  
} DOCKET NO. 10-1-07 BnJv

Trial Judge: Ellen H. Maloney

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

Mother appeals the family court's order terminating her parental rights with respect to her son, C.P. We affirm.

Mother came to Vermont from Massachusetts shortly before the birth of C.P., her second child, to avoid the involvement of the Massachusetts Department of Social Service, which had assumed custody of her first child in September 2006. When C.P. was born in January 2007, he was found to have several drugs in his system due to mother's substance abuse. He was placed in the custody of the Department for Children and Families (DCF) pursuant to an emergency detention order and discharged from the hospital directly into foster care. He has been with the same foster family, who hope to adopt him, since shortly after his birth.

In April 2007, C.P. was adjudicated a child in need of care and supervision (CHINS) based on the parties' stipulation. Following a contested disposition hearing that took place over several months, the family court continued DCF custody and approved a case plan with a goal of reunification. Determining that the parents were not making adequate progress toward reunification, DCF sought termination of parental rights in March 2008. In September 2008, following three days of hearing, the family court entered its termination order. Only mother appeals that order.

On appeal, mother argues that the evidence does not support the court's conclusion that C.P. needs immediate permanency. According to mother, the court's conclusion that C.P. needs permanency is based on its finding that the child still does not call anyone "mama" or "dada," but there is no evidence that the child's failure to do so is the result of his need for permanency. Mother also contends that the family court erred by basing its termination order on the child's purported need for permanence with his current foster parents.

We find no merit to these arguments. Mother focuses on one brief sentence, out of a thirty-seven-page decision, in which the court notes that C.P. does not yet call anyone "mama" or "dada." But the court's conclusion that mother would be unable to resume her parental duties within a reasonable period of time is based on overwhelming evidence of her failure to meet most of the case plan goals aimed at putting her in a position in which she could reunify with her child. Before and after C.P.'s birth, mother and father had a turbulent relationship fraught with domestic violence perpetuated by each of them. The domestic violence, mother's drug use, an unstable housing situation, and ongoing criminal conduct led to the removal of mother's children

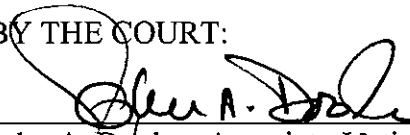
from her custody. The May 2007 disposition plan called for mother to address her mental-health and substance-abuse issues, obtain and maintain safe and stable housing, complete parenting classes, attend all scheduled visits with C.P., meet weekly with her case worker to participate in case-planning, and not engage in any further criminal conduct.

In its September 2008 termination order, the family court found, among other things, that: (1) although mother had engaged in a substance-abuse program while incarcerated, she had not done anything since then to ensure her long-term sobriety; (2) the little progress that mother had recently made toward addressing her mental-health problems was insufficient for her to avoid violent outbursts on a long-term basis; (3) she had made virtually no progress in achieving stable housing; (4) she had neither taken a parenting course nor met regularly with her case worker; (5) she continued to engage in domestic violence and criminal conduct, resulting in confrontations with police and incarceration; and (6) she had attended less than half of the regularly scheduled visits with C.P. from June 2007 to January 2008, and had not visited him at all since then. Mother does not challenge any of these findings, which fully support the court's determination that stagnation had occurred and that mother would be unable to resume her parental duties within a reasonable period of time from the child's perspective, given her lack of progress toward reunification and the fact that C.P. had spent his entire life, more than eighteen months, in foster care. 33 V.S.A. § 5540 (listing best-interests criteria).

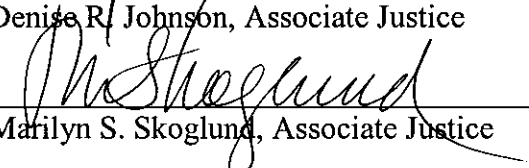
Mother also complains that the court erroneously based its termination order on C.P.'s need for permanence with his foster family. As shown above, however, the court's termination order is based primarily on overwhelming evidence that mother would not be able to resume her parental duties within a reasonable period of time. See *In re M.M.*, 159 Vt. 517, 523 (1993) (stating that most important statutory factor is likelihood of parent resuming parental duties within reasonable period of time). In determining C.P.'s best interests, the court was obligated to consider—in addition to the likelihood of mother resuming her parental duties within a reasonable period of time—other factors, such as the child's relationship with his foster parents and others and his adjustment to his home and community. See 33 V.S.A. § 5540(1)-(2). The court noted that C.P. had spent almost his entire life with this foster family, and that, although he initially exhibited high muscle tone and needed constant human presence and soothing, he eventually learned to relax due to the attentive care of the foster parents. The court emphasized the young child's ongoing need for stability and permanence to ensure his continued progress. The court concluded, based upon all of the statutory factors, that the child's best interests dictated that he be freed for adoption. Cf. *In re J.B.*, 167 Vt. 637, 640-41 (1998) (mem.) (concluding that family court based its best-interests analysis on all four statutory factors and not only psychological bond that had developed between child and foster family). The evidence supports the court's findings and conclusions, which, in turn, support its termination order.

Affirmed.

BY THE COURT:

  
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John A. Dooley, Associate Justice

  
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Denise R. Johnson, Associate Justice

  
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Marilyn S. Skoglund, Associate Justice