

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

VERMONT SUPREME COURT
FILED IN CLERK'S OFFICE

ENTRY ORDER

SUPREME COURT DOCKET NO. 2009-160

SEP 4 2009

SEPTEMBER TERM, 2009

In re K.L., Juvenile

} APPEALED FROM:
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}

} Franklin Family Court
}

} DOCKET NO. 203-11-07 Frjv
}

Trial Judge: Mark J. Keller

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

Mother appeals the termination of her parental rights with respect to her daughter, K.L. We affirm.

In May 2008, the family court found K.L., born in April 1998, to be a child in need of care and supervision (CHINS) based upon its determination that she was without proper parental care because she had been sexually abused by her older brother, and her parents did not believe the abuse had occurred and would not protect her against any further abuse. In August 2008, the court issued a disposition order approving a plan of services and a goal of reunification. In October 2008, the Department for Children and Families (DCF) filed a petition to terminate the parents' residual parental rights, citing the parents' failure to engage in services and the ongoing violent family environment. Father did not testify at the termination hearing. Mother stated that she could provide K.L. with a mother's love but admitted on cross-examination that she was not yet able to effectively parent K.L. and that K.L. was happy in her foster home. Mother did not, however, formally relinquish her parental rights. Following the termination hearing, the family court granted DCF's petition, concluding that neither parent had played a constructive role in K.L.'s life or would be able to resume parental duties within a reasonable period of time.

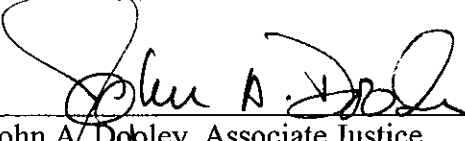
On appeal, mother does not seek to overturn the family court's judgment granting DCF's petition, but rather would like this Court to remand the matter for the family court to strike unnecessarily punitive statements and recognize the sacrifice she made in acknowledging that K.L. was better off with her foster placement. Specifically, mother argues that (1) the court acted punitively towards her by concluding that her stated desire to help K.L. was not supported by her actions; and (2) the court's conclusion that K.L.'s relationship with her parents was one of fear was not supported by the record, at least with respect to mother.

While we appreciate mother's willingness to recognize that her daughter's needs might be better served in the child's foster home, we find no basis to remand this case to the family court. The court concluded that mother's statement of support for K.L. was inconsistent with her past actions, given the evidence of her failure to engage in necessary services and to remove herself from an abusive relationship that threatened K.L. We have no doubt that mother's acknowledgment of K.L.'s needs was sincere, but the evidence supports the court's conclusion

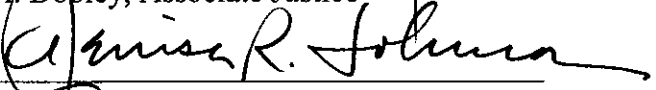
that mother had not acted in K.L.'s best interest. The record also supports the court's conclusion that K.L. was fearful of her home environment, not only her father, but also mother because of mother's failure to protect her from other family members. We recognize the difficulty of mother's admission that the best interest of her daughter lay in her foster placement, but this appeal does not present a legal basis to disturb the family court's judgment.

Affirmed.

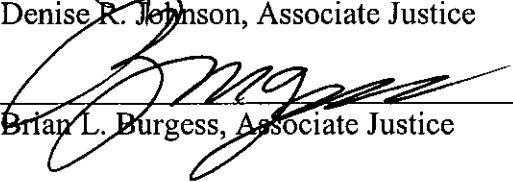
BY THE COURT:



John A. Dopley, Associate Justice



Denise R. Johnson, Associate Justice



Brian L. Burgess, Associate Justice