

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

ENTRY ORDER

SUPREME COURT DOCKET NO. 2004-054

MAY TERM, 2004

In re D.P. and D.P., Juveniles	}	APPEALED FROM:
	}	
	}	Orleans Family Court
	}	
	}	DOCKET No. 49/50-5-02 Osjv
	}	
	}	Trial Judge: Hon. Alan Cheever
	}	
	}	

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

Mother appeals from a family court judgment terminating her residual parental rights to minors D.P. and D.P. She contends the court erred by: (1) failing to make findings concerning the role of the Department of Social and Rehabilitation Services in her alleged stagnation; and (2) basing its decision in part on mother's financial difficulties. We affirm.

SRS became involved in this case in June 2001 because of reports that mother had left the minors, twins who were then six months old, unattended in a car and in her apartment. Mother voluntarily entered a residential program at the Lund Family Center in December, but was discharged four months later for failure to make progress, noncompliance with program expectations and rules, and persistent issues that Lund had concerning mother's failure to attend adequately to the children's safety. Upon mother's discharge, SRS filed a CHINS petition, resulting in a family court protective order requiring that mother obtain housing, attend counseling and parent education, and receive intensive family based services, and that the children attend daycare. Mother moved from Chittenden to Orleans County, where a second CHINS petition was filed in July 2002, based on reports that one of the children had suffered second degree burns at home, mother was not adequately attending to the children's safety, and the children were not attending day care. The court issued a temporary detention order and transferred custody to SRS. The children, who were then a year and a half old, were placed with a family acquainted with mother, where they have remained ever since.

The parties stipulated to a CHINS adjudication, and a case plan was adopted requiring that mother maintain consistent employment, counseling, parent education, and visitation, and demonstrate that she was able to maintain a safe, stable, and secure environment for the children. Subsequent dispositional reviews revealed that mother had been evicted from her apartment for nonpayment of rent, missed many appointments with her therapist, was fired from her job at Shaws for tendering twelve checks that were returned for insufficient funds, missed visits with the twins and had significant problems during visits in supervising them and attending to their safety, and made no progress in managing her budget. SRS filed a TPR petition in July 2003. Following an evidentiary hearing over three days in November and December, the court issued a written decision, granting the petition. Based on extensive testimony, including that of mother's SRS social worker and parent educators, the court found that " despite receiving residential treatment, parent education classes, one-on-one parent education assistance, budgeting assistance, intensive family based services, counseling and other assistance, [mother] has failed to acquire parenting skills that would allow her to resume her parenting role," and would not be able to adequately parent the children in the reasonably foreseeable future. Finding that mother had failed to play a constructive role in the children's lives and that the children had bonded with and were thriving in the home of their foster parents, the court concluded that termination was in the children's best interests. Accordingly, the court terminated mother's residual parental rights and transferred custody to SRS. This appeal followed.

Mother first contends the court erroneously failed to make findings as to whether SRS' s assistance hampered her progress. See In re J.S. & S.S., 168 Vt. 572, 573-74 (1998) (mem.) (addressing question whether stagnation was caused by events " beyond the parents' control"). Mother asserts that the evidence shows she was subjected to differing advice from different service providers about proper parenting skills, thereby potentially confusing her with conflicting information. The testimony to which she refers, however, does not support the claim. Irene Delabruere, a parent-educator who instructed mother in parenting skills and supervised many of her visits with the children testified that it was " possible" Donna Bowen, who had also supervised some of the visits, " may" have offered mother " a little different advice." Bowen acknowledged that mother had spoken with her, and explained that she then consulted with Delabruere to ensure that they were coordinated on the information that mother was receiving. Similarly, Patricia Moccia, an SRS social worker, stated that different service providers have " different styles" and acknowledged that it was possible mother had received " different good advice from different people." Neither Bowen, nor Delabruere, nor Moccia, nor any other witness, including mother, testified that mother had actually received conflicting advice or that she had been confused or hampered in her efforts as a result. On the contrary, mother claimed that she had " learned a lot" from SRS. Accordingly, the evidence does not support mother' s claim that SRS provided conflicting advice that contributed to her lack of progress.

Mother also contends that she was " provided with adverse visiting conditions." The only evidence to which she refers in this regard is her social worker' s testimony that the room for supervised visits at the SRS offices is " small," and acknowledgment that the environment can be " artificial" and " might make someone a little nervous." This evidence does not remotely show that the substantial problems which occurred during mother' s visits with the children were caused by SRS or some outside agency. There was no evidence that SRS contributed to mother' s failure to make progress, or that her failure was due to circumstances beyond her control. Accordingly, the court did not err in failing to make findings on these issues.

Mother further contends the court improperly grounded its decision, in part, on her financial difficulties. Mother' s case plan required, among other things, that she retain employment and demonstrate an ability to provide the children with a secure and stable environment. The court' s findings noted that mother had been evicted from an apartment for nonpayment of rent, been fired from her job at Shaw' s for writing checks that were returned for insufficient funds, and shown a general inability to manage her finances despite efforts to assist her in this regard. These findings were relevant to mother' s ability to provide a stable and secure environment, and the court' s conclusion that despite having received extensive services, mother had failed to acquire adequate skills to resume her parenting role. See In re E.B. & J.B., 158 Vt. 8, 14 (1992) (parents' failure to find stable housing and employment, and inability " to organize and regulate the most basis elements of day-to-day living," supported decision to terminate parental rights). Accordingly, we discern no error.

Affirmed.

BY THE COURT:

John A. Dooley, Associate Justice

Denise R. Johnson, Associate Justice

Marilyn S. Skoglund, Associate Justice

