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THE SUPREME COURT OF NEW HAMPSHIRE

1st Circuit Court-Colebrook Family Division
Case No. 2025-0594
Citation: In re H.H.; In re B.H., 2026 N.H. 29

IN RE H.H.; IN RE B.H.

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WILL, J.

[¶1] The Circuit Court (Subers, J.) terminated the parental rights of the respondent, father of H.H. and B.H. (Father), finding that he failed to correct conditions of child neglect within twelve months. See RSA 170-C:5, III (2022). Father appeals the circuit court order and argues that: (1) he corrected the conditions that led to the finding of neglect; (2) the petitioner, the New Hampshire Division for Children, Youth and Families (DCYF), failed to make reasonable efforts toward reunification; and (3) termination was not in the children's best interest. We affirm.

I. Background

[¶2] The trial court found, or the record otherwise supports, the following facts. In June 2023, DCYF received a report expressing concern that the children’s legal guardians, their paternal great-grandparents, neglected the children. The reporter alleged that the great-grandmother physically and verbally abused the children. The reporter alleged that Father lived in the home and cared for the children, despite federal probation requirements that he remain separated from them pending completion of drug treatment and parenting classes.

[¶3] A child protective services worker’s (CPSW) visit to the home corroborated the report. The CPSW observed a handprint mark on a child’s back. She also observed Father’s quarters in the basement, cluttered with jugs of urine, empty alcoholic beverage bottles, and an empty suboxone container, among other detritus.

[¶4] DCYF initiated abuse and neglect proceedings pursuant to RSA chapter 169-C (2022 & Supp. 2025). The court granted DCYF’s request for an ex parte order for “emergency out of home placement,” and DCYF removed the children from the home. At the adjudicatory hearing, Father acknowledged that the guardians struck the children. On that basis, in addition to the condition of his living space, the court found Father responsible for neglect.

[¶5] A dispositional hearing followed, at which the court articulated several objectives Father must meet in order to correct the conditions of neglect. These included: (1) reengaging with substance use treatment; (2) maintaining sobriety; (3) creating a safe, stable, and nurturing home; (4) learning and implementing appropriate parenting skills; (5) addressing his probation requirements; (6) demonstrating that he would choose safe and appropriate caregivers for his children; and (7) acting protectively over the children by putting their needs above his own. DCYF referred Father to several programs to assist him in achieving these objectives.

[¶6] At the three-month review hearing, Father demonstrated substantial compliance. His consistent visits demonstrated an increasing bond with his children. He communicated regularly with DCYF, engaged in ongoing programming and counseling, and had at least made efforts to find appropriate housing. At both the six- and nine-month review hearings, Father continued to demonstrate similar substantial compliance. Throughout, however, Father did not obtain adequate housing, though he continued to try to meet that goal and reported on his efforts at each hearing.

[¶7] The court held a permanency hearing in October 2024. Father remained in substantial compliance except as to the housing objective, though he had made progress. He reported that he purchased a mobile home and had

moved it to a rented property in rural Vermont. He told DCYF that the water and septic were “operational” and that a generator would provide electricity, but the CPSW testified that Father “had a lot of work to do” on the property, including getting an address from the town, burying the water line to prevent it from freezing, installing a permanent solution for septic and water, and hooking up electricity. While DCYF considered the home adequate, the CPSW emphasized that Father needed to provide DCYF with an address so DCYF could begin the process delineated in the Interstate Compact on the Placement of Children (ICPC). See RSA ch. 170-A (2022 & Supp. 2025); *In re Alexis O.*, 157 N.H. 781, 785 (2008) (“The ICPC governs the relations between states when decisions are made as to where to place a dependent child.” (quotation and ellipses omitted)).¹

[¶8] Father’s failure to secure safe and appropriate housing — his only unmet objective — foreclosed reunification. Given his substantial compliance with the other objectives, however, DCYF requested, and the court granted, a one-time 90-day extension for Father to demonstrate his ability to provide appropriate housing. See RSA 169-C:24-b, IV (2022). The court emphasized that, by the end of the 90-day extension period, Father would need to: (1) verify that emergency services would respond to his home address; (2) properly winterize the home; and (3) cooperate with an ICPC home study. In order to complete the latter condition within the 90-day period, the court authorized DCYF to commence an Interstate Compact Priority Placement and Social Study and expedite the process with Vermont.

[¶9] During the 90-day extension period, Father regressed from substantial compliance to partial compliance. Father canceled or declined multiple visits with the children, consumed marijuana and alcohol, and faced criminal charges after he consumed alcohol and then caused a car accident. Father also delayed the ICPC process by failing to promptly complete the necessary paperwork.

[¶10] Father’s regression led DCYF, late in the 90-day extension period, to shift its position from supporting reunification to supporting termination of Father’s parental rights. As a result, on or about January 28, 2025, DCYF informed Vermont child welfare authorities that it no longer required the ICPC

¹ Father has not sufficiently developed an argument that the ICPC does not apply in this case, so we do not address the issue. See *State v. Blackmer*, 149 N.H. 47, 49 (2003) (stating that we do not address arguments that “were not sufficiently developed for appellate review”). The ICPC sets forth conditions for placement of children from one state into another. See RSA 170-A:1, Art. III (2022). The process begins when the compact administrator in the “sending state” recommends a placement and provides the “receiving state” with information concerning the proposed placement. *Alexis O.*, 157 N.H. at 785. Then, the ICPC compact administrator in the “receiving state” determines whether, in his or her opinion, the placement is appropriate. *Id.* “In essence, the ICPC requires that its procedures be followed in order to obtain the receiving state’s permission for placement before the child is sent to the receiving state” *Id.* at 785-86 (quotation omitted).

study. DCYF did not secure court permission before withdrawing its request for the study.

[¶11] On February 18, 2025, the court held the second permanency hearing, which led to several findings that foreclosed reunification. First, the court found that Father “dropped to partial compliance” during the extension period. Second, the court concluded that Father did not prove that reunification would not endanger the children. Third, the court found that reunification would not serve the children’s best interests. The court directed DCYF to commence parental rights termination proceedings.

[¶12] DCYF petitioned to terminate Father’s parental rights and, on July 8 and August 11, 2025, the trial court conducted a termination of parental rights (TPR) hearing on DCYF’s petition. The court found that despite DCYF’s reasonable efforts, Father failed to correct the conditions that led to the finding of neglect within twelve months. The court further found that termination of Father’s parental rights would serve the children’s best interests, as it would clear the way for their foster parents to adopt them.

II. Analysis

[¶13] Through RSA chapter 170-C, the legislature has set forth specific types of conduct that can result in termination of parental rights, as well as procedural mechanisms to govern that process. See RSA ch. 170-C (2022 & Supp. 2025). DCYF may file a petition to terminate parental rights and bears the burden to prove a statutory basis for termination beyond a reasonable doubt. See In re K.O., 177 N.H. 558, 564 (2025), 2025 N.H. 39, ¶15; RSA 170-C:10 (2022).

[¶14] DCYF advanced RSA 170-C:5, III as the basis to terminate Father’s parental rights. RSA 170-C:5 requires DCYF to first demonstrate that the trial court made a finding of child neglect or abuse under RSA chapter 169-C. In re C.O., 171 N.H. 748, 756 (2019). DCYF must then demonstrate that Father failed to correct the conditions of abuse and neglect within twelve months of the finding. Id. DCYF must also demonstrate that it made reasonable efforts under the direction of the court to rectify or correct the conditions. Id.

[¶15] This latter condition requires DCYF to have provided “accessible, available, and appropriate” services to the parent, keeping in mind that “DCYF’s role in neglect cases is not to assume the full weight of the parent’s responsibilities, but to provide the parent assistance to deal with and correct problems.” In re S.A., 174 N.H. 298, 300 (2021). We have recognized that DCYF’s staffing and financial limitations factor into the determination of whether the agency has satisfied the statute’s “reasonable efforts” standard. Id. Reasonable efforts means doing everything reasonable, not everything possible. Id.

[¶16] Even if DCYF meets the three statutory conditions, a court may not grant DCYF’s petition without also finding that parental rights termination serves the child’s best interests. See K.O., 177 N.H. at 565, 2025 N.H. 39, ¶17.

[¶17] When reviewing a termination decision, “we will not disturb the circuit court’s finding unless it is unsupported by the evidence or plainly erroneous as a matter of law.” Id. at 565, 2025 N.H. 39, ¶18. This standard of review recognizes that the trial court stands in the best position to assess and weigh the evidence before it. Id. “[O]ur task is not to determine whether we would have found differently, but whether a reasonable person could have reached the same conclusions as the trial judge based upon the evidence presented.” Id.

[¶18] Father does not dispute that the court in the RSA chapter 169-C proceedings made a finding of neglect. See C.O., 171 N.H. at 756. Father does dispute, however, the trial court’s conclusion that he “failed to correct the conditions of . . . neglect within 12 months of the finding.” Id.

[¶19] The trial court based this conclusion, in part, on Father’s behavior during the 90-day extension period, including his failure to comply with the dispositional order. See K.O., 177 N.H. at 564-65, 2025 N.H. 39, ¶15 (a parent’s compliance with dispositional orders in the underlying child neglect case is a “non-dispositive factor that the trial court may consider when determining whether the parent has corrected the neglect conditions”). As a legal matter, the court acted within its statutory authority in requiring Father’s ongoing compliance with the dispositional order. RSA 169-C:24-b, IV provides that, at a permanency hearing, the court “may grant one extension of time that shall not exceed 90 days, and hold a subsequent permanency hearing,” upon satisfaction of certain conditions. RSA 169-C:24-b, IV. First, the court must find the parent to be in “substantial compliance with the outstanding dispositional orders.” Id. Second, the parent must establish, in part, that: “The parent is diligently working toward reunification, which is expected to occur within 90 days.” Id. Third, the parent must establish that: “It is probable the parent will be able to demonstrate, after the extension and at a subsequent permanency hearing held pursuant to RSA 169-C:24-b, I(b), that the parent has met the 3 requirements of RSA 169-C:23.” Id. Nothing in the language of RSA 169-C:24-b expressly states that the dispositional order remains in effect during the 90-day extension period. A narrow focus on this specific provision, therefore, could allow for an argument that the court acted ultra vires in considering Father’s overall compliance at the second permanency hearing, rather than solely those requirements with which he was out of compliance at the first permanency hearing.

[¶20] But we construe statutes as a whole. See In re J.H., 176 N.H. 238, 242 (2023) (“We construe all parts of a statute together to effectuate its overall purpose and avoid an absurd or unjust result.”). RSA 169-C:24-b

contemplates a second, full permanency hearing. See RSA 169-C:24-b, I(b), IV. The statute does not limit the considerations during a second permanency hearing to just the areas of noncompliance, but rather turns to RSA 169-C:23, which broadly conditions reunification on, among other things, whether a parent demonstrates “compliance with the outstanding dispositional court order.” RSA 169-C:23, I (2022); see RSA 169-C:24-b, IV(b). Reading the statute as a whole, RSA 169-C:24-b, IV(b), through its invocation of RSA 169-C:23, makes clear that the court must consider compliance with the entire dispositional order during a second permanency hearing following the 90-day extension period, not solely those areas of noncompliance identified at the first permanency hearing.

[¶21] Rather than alter the reunification standards, the 90-day extension period simply extends the period of time to demonstrate compliance. The trial court, therefore, did not commit legal error by finding that Father’s behavior during the 90-day extension demonstrated his failure to correct the conditions of neglect within 12 months (plus the 90-day extension period).

[¶22] The factual record supports the trial court’s conclusion. First, the record contains evidence that Father failed to maintain sobriety. The CPSW assigned to this case testified that Father had recently completed federal probation, which required him to stay sober. After his probation concluded, however, screens showed that Father consumed marijuana and alcohol. During a visit to his home, the CPSW discovered liquor bottles in Father’s freezer.

[¶23] Father’s substance use, moreover, endangered others. After dropping the children off from a visit in early January 2025, Father caused a single-car accident and law enforcement charged him with leaving the scene of an accident. Father self-reported that he consumed alcohol prior to the accident. He did not report the accident to DCYF for four days.

[¶24] Second, DCYF introduced evidence that Father failed to prioritize his children’s needs above his own by canceling visits with the children and not communicating with DCYF and the foster family. DCYF initially paused visits due to safety issues with Father’s property and, later, Father cancelled a visit due to his frozen waterline. The CPSW testified that, in response to DCYF follow-up, Father’s “lack of information and communication prompted a continuation in the pause in visits.”

[¶25] During the 90-day extension period, Father “reduced his engagement with DCYF and the foster family.” He declined their offer to spend Christmas with the children at the foster family’s home. The CPSW testified that the foster mother sent messages to Father between December 2024 and March 2025 about the children’s appointments and their health, but Father did not respond to those messages. The CPSW also testified that, according to

the foster mother, when one of the children fell ill, Father neither attended appointments nor inquired into the child's well-being.

[¶26] The guardian ad litem (GAL) — who had worked with the family from the beginning of the proceedings in June 2023 — testified that in January 2025, the case “fell off the rails completely.” In her subsequent report for the second permanency hearing, the GAL noted a “drastic shift” in Father's demeanor during the 90-day extension period, which “rang alarm bells.” (Quotation omitted.) At the TPR hearing, the GAL testified about safety concerns for the children. She explained that after unsupervised visits with Father, the children would mention that they had seen their mother or grandparents, even though Father did not have authority to arrange those visits. The foster parent reported to the GAL that the children would return from these unsupervised visits without having bathed or changed their clothes. As quoted in the trial court order, the GAL emphasized in her final report for the TPR that Father's “sporadic follow-through, avoidance of phone contact with caseworkers, and delays in essential tasks such as submitting lease documents, returning calls to ICPC officers, and responding to visitation violations raise substantial concerns.” She reported that Father's “behaviors suggest passive abandonment — a failure to act within the children's timeframes despite knowing what is required.”

[¶27] This evidence supports not only that Father failed to comply with the dispositional order during the 90-day extension period, but also the trial court's finding that Father “cannot demonstrate that the children will not be endangered in the manner adjudicated on the initial petitions, if returned to the home.” We accordingly cannot conclude that the trial court's finding that Father “failed to correct the conditions of . . . neglect within 12 months of the finding,” C.O., 171 N.H. at 756, is “unsupported by the evidence or plainly erroneous as a matter of law,” K.O., 177 N.H. at 565, 2025 N.H. 39, ¶18.

[¶28] Against all of this evidence, Father contends that DCYF violated a court order by unilaterally and prematurely canceling the ICPC home study. Father argues that had DCYF facilitated the ICPC process, he would have solved the housing problem and come into full compliance with the dispositional objectives; and, had DCYF sought judicial approval before canceling the ICPC process, he would have had the opportunity to contest it. Father's argument assumes substantial compliance with the dispositional order.

[¶29] Even if DCYF needed a court order to abandon the ICPC process, the trial court's failure to consider DCYF's conduct at most establishes harmless error. See In re G.W., 177 N.H. 676, 684-85 (2025), 2025 N.H. 53, ¶27 (concluding that even if we assumed trial court erred by failing to suppress evidence, any such error was harmless). “Where it appears that an error did not affect the outcome below, or where the court can see from the entire record

that no injury has been done, the judgment will not be disturbed.” *Id.* at 685, 2025 N.H. 53, ¶27 (quotation omitted). Put another way, even if we assume that Father would have cleared the housing hurdle had DCYF not canceled the ICPC home study, DCYF introduced a volume of evidence, described above, demonstrating Father’s lack of compliance with several of the other dispositional objectives, the constellation of which supports the trial court’s determination independent of the housing issue. Father cannot demonstrate that the failure to consider DCYF’s unilateral cancellation of the ICPC process affected the outcome because “a reasonable person could have reached the same conclusions as the trial judge based upon the evidence presented.” *K.O.*, 177 N.H. at 565, 2025 N.H. 39, ¶18.

[¶30] The trial court’s finding that Father did not prioritize the ICPC process also finds support in the record and does not affect our conclusion that any alleged error is harmless. The CPSW reported that when she visited Father’s home on January 5, 2025 — 72 days after the court ordered the expedited ICPC process — Father had not yet taken all the necessary steps to complete the ICPC process, largely due to his own unexplained delay. She explained that Father “did not prioritize completing the paperwork in a timely manner, delaying the ICPC process.” The record reflects evidence, in short, that Father delayed the ICPC process independent of DCYF canceling it.

[¶31] Nor does DCYF’s cancellation of the ICPC home study demonstrate a lack of reasonable efforts to assist Father in correcting the conditions of neglect. Father does not dispute that DCYF made reasonable efforts to assist him during the first 12 months by providing case management, supervised parenting time, parenting education, a family housing referral, drug and alcohol screens, and referrals to unification programs. The trial court admitted evidence that during the 90-day extension period DCYF continued these efforts: DCYF coordinated parenting time with the children, visited Father’s home to conduct a home study, monitored screening for alcohol and drugs, and provided Father with case management that included monthly meetings and action plans. DCYF also maintained contact with Father “through frequent phone calls and texts” and reminded Father to complete the steps required for the ICPC study. From that evidence, the trial court could conclude that DCYF “put forth reasonable efforts” and provided Father with “assistance to deal with and correct problems.” *S.A.*, 174 N.H. at 300.

[¶32] With specific respect to the ICPC study, DCYF — not Father — asked for a 90-day extension to allow Father to complete the ICPC process and attain reunification. Promptly upon judicial authorization, in October 2024, DCYF began preparing the ICPC request but had to wait for Father to provide an address. DCYF then assisted Father with resolving an error with his address. Once Father provided the correct address, DCYF completed and submitted the ICPC request. On multiple occasions, DCYF reminded and encouraged Father to reach out to Vermont authorities about the ICPC. Given

Father's failure to follow through and the timing of the withdrawal, we cannot conclude that DCYF failed to make reasonable efforts. See id.

[¶33] Finally, the record contains sufficient evidence to support the trial court's finding that termination of Father's parental rights serves the best interests of the children. The "best interest" element considers the welfare of the child over the interests of the parent. K.O., 177 N.H. at 565, 2025 N.H. 39, ¶17.

[¶34] The record reflects that the children have been in the care of a guardian or in DCYF custody for a significant portion of their lives. The children have been in out-of-home care since June 1, 2023. The CPSW noted that "DCYF has had several prior assessments and reports of concern regarding [the children] during their short lives." The GAL reported that when first placed in out-of-home care, the children were "a challenge to the pretty experienced foster [parents]." Over time, however, the children have come to thrive in their pre-adoptive foster home. At the time of the TPR hearing, the children had been in this pre-adoptive foster home for approximately a year and a half, during which time the CPSW and GAL reported that the children demonstrated behavioral improvements. DCYF described the foster home as "safe, secure, [and] loving." The GAL recommended that the court terminate reunification efforts and "[p]roceed with adoption planning through the foster family, who are willing and able to adopt" because the children's need for permanency outweighs further attempts at parental rehabilitation. See In re C.M., 166 N.H. 764, 775 (2014) (recognizing that children need and deserve permanent living arrangements). The trial court's conclusion that terminating Father's parental rights serves the children's best interest finds support in the record. See K.O., 177 N.H. at 568-69, 2025 N.H. 39, ¶26-27 (holding that trial court did not err in finding that termination of mother's parental rights was in child's best interest where the evidence demonstrated that child had hardly been in mother's care, did not have a strong bond with mother, lived in a pre-adoptive foster home for over a year, and had bonded with foster parents).

Affirmed.

MACDONALD, C.J., and DONOVAN, COUNTWAY, and GOULD, JJ., concurred.