

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DIANE LONG, ¹	§
	§ No. 277, 2013
Respondent Below-	§
Appellant,	§ Court Below—Family Court
	§ of the State of Delaware,
v.	§ in and for New Castle County
	§ File No. 12-10-12TN
DIVISION OF FAMILY SERVICES,	§ Petition No. 12-34837
	§
Petitioner Below-	§
Appellee.	§

Submitted: September 10, 2013

Decided: September 13, 2013

Before **STEELE**, Chief Justice, **HOLLAND**, and **RIDGELY**, Justices.

ORDER

This 13th day of September 2013, upon consideration of the appellant's brief filed pursuant to Supreme Court Rule 26.1, her attorney's motion to withdraw, and the response filed by the Division of Family Services (DFS), it appears to the Court that:

(1) The respondent-appellant, Diane Long, filed this appeal from the Family Court's order, dated April 23, 2013, which terminated her parental rights with respect to her minor child. Long's counsel on appeal has filed a brief and a motion to withdraw pursuant to Rule 26.1. Counsel

¹ The Court previously assigned a pseudonym to the appellant pursuant to Supreme Court Rule 7(d).

asserts that she has made a conscientious review of the record and the law and can find no arguable grounds for appeal. Long did not respond to her counsel's motion and brief and thus has not raised any issues for this Court's consideration on appeal. DFS has filed a response to the brief and has moved to affirm the judgment below.

(2) The record reflects that Long is the mother of a child who was born on September 21, 2008. The child was taken into DFS's custody by *ex parte* order dated November 14, 2011 after Long's other child, an infant, had suffocated to death while living in the home of Long's grandmother in violation of a prior DFS safety plan. Counsel was appointed to represent Long and a two-day adjudicatory hearing was held on January 31, 2012 and March 13, 2012. At that time, Long was unemployed, had no stable housing, admitted to drug use, and also admitted that her grandmother, not she, acted as the child's primary caregiver.

(3) A dispositional hearing was held on April 9, 2012. At that time, the Family Court entered into evidence and incorporated into its order Long's case plan for reunification. The elements of that plan included Long obtaining stable housing, having sufficient income to provide for the child, completing a parenting class, successfully completing a substance abuse program, obtaining a mental health evaluation, and completing her

education. The Family Court held a permanency hearing in January 2013. DFS presented evidence about Long's inconsistent and sometimes inappropriate supervised visits with the child and also about Long's failure to make any progress on her case plan. After hearing the evidence, the Family Court found that the child remained dependent and approved a change of goal from reunification to termination of parental rights

(4) The termination of parental rights hearing was held on April 23, 2013. Long's counsel appeared, but Long did not. The Family Court heard from ten witnesses. The testimony established that Long had been inconsistent in visiting the child and had failed to make progress toward completing her case plan. At the conclusion of the hearing, the Family Court found clear and convincing evidence that DFS had made reasonable efforts to reunify Long with the child, that Long had failed to plan for the child, and that termination of Long's parental rights was in the child's best interests.²

(5) This Court's review of a Family Court decision to terminate parental rights entails consideration of the facts and the law as well as the inferences and deductions made by the Family Court.³ To the extent that the

² DEL. CODE ANN. tit. 13, § 1103(a)(5) (2009).

³ *Wilson v. Div. of Family Serv.*, 988 A.2d 435, 439-40 (Del. 2010).

Family Court's rulings of law are implicated, our review is *de novo*.⁴ To the extent that the issues on appeal implicate rulings of fact, we conduct a limited review of the factual findings of the trial court to assure that they are sufficiently supported by the record and are not clearly wrong.⁵ If the trial judge has correctly applied the law, our review is limited to abuse of discretion.⁶

(6) In reviewing a petition for termination of parental rights, the Family Court must employ a two-step analysis.⁷ First, the court must determine, by clear and convincing evidence, whether a statutory basis exists for termination.⁸ Second, the court must determine, by clear and convincing evidence, whether termination of parental rights is in the child's best interests.⁹

(7) In this case, we have reviewed the parties' positions and the record below very carefully. We conclude that there is ample evidence on the record to support the Family Court's termination of Long's parental rights on the statutory basis that she had failed to plan for the child and that

⁴ *Id.* at 440.

⁵ *Powell v. Dep't of Serv. for Children, Youth & Their Families*, 963 A.2d 724, 731 (Del. 2008).

⁶ *Id.*

⁷ DEL. CODE ANN. tit. 13, § 1103(a) (2009).

⁸ *Shepherd v. Clemens*, 752 A.2d 533, 537 (Del. 2000).

⁹ *Id.*

termination was in the child's best interests. We find no abuse of discretion in the Family Court's factual findings and no error in its application of the law to the facts. Accordingly, the judgment below shall be affirmed.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Family Court is AFFIRMED. The motion to withdraw is moot.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice