

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ASHLEY MORRIS and	§	
JARED A. CLARKE, <sup>1</sup>	§	Nos. 580/581/586/587, 2011
	§	Consolidated
Respondents Below,	§	
Appellants,	§	Court Below: Family Court of
	§	the State of Delaware, in and for
v.	§	Sussex County
	§	
DIVISION OF FAMILY SERVICES	§	File Nos. 10-04-01TS
and COURT APPOINTED SPECIAL	§	CS10-02422
ADVOCATE,	§	
	§	Petition Nos. 10-11604
Petitioners Below,	§	10-26068
Appellees.	§	

Submitted: April 25, 2012

Decided: May 23, 2012

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

**ORDER**

This 23<sup>rd</sup> day of May 2012, upon consideration of the briefs of the parties and the record in this case, it appears to the Court that:

1. Ashley Morris (“Mother”) and Jared Clarke (“Father”), the respondents-below (collectively, the “parents”), appeal from Family Court orders terminating their parental rights in their three-year-old daughter (“child”) and denying a petition by maternal grandfather and paternal aunt, who are married (collectively, the “maternal grandparents”), for guardianship of the child. The

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<sup>1</sup> The Court *sua sponte* assigned pseudonyms to the appellants pursuant to Supreme Court Rule 7(d).

Family Court awarded custody to the Division of Family Services, the petitioner-below (“DFS”), to enable the child to be placed with adoptive parents. On appeal, parents claim that the trial court abused its discretion by denying maternal grandparents’ petition for guardianship based on insufficient record evidence. They also argue that the Family Court terminated their parental rights based on a legally erroneous analysis of the statutory best-interests-of-the-child factors (the “best-interests factors”).<sup>2</sup>

2. DFS first gained custody of the parents’ children<sup>3</sup> on November 25, 2008, after the agency raised concerns about domestic violence by Father and substance abuse by Mother. The child was three days old at the time, having been “born drug-positive with significant health concerns” including “two holes in her heart, two cysts on her brain, [and] severe reflux.” The Family Court ordered the children to remain in DFS’ care and, in January 2009, the parents agreed to a case plan for reunification with them. With parents’ support, paternal grandmother was awarded guardianship of the two children not implicated in this appeal on December 14, 2009. Thereafter, maternal and paternal grandparents filed petitions for guardianship of the child. Eventually, both petitions were withdrawn. When DFS then decided to seek termination of the parents’ rights in the child, only the

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<sup>2</sup> 13 *Del. C.* § 722(a).

<sup>3</sup> DFS gained custody of Mother’s three children, two of which (including the child) are biologically Father’s. Mother and Father’s second child is now 9-years-old, and Mother’s third child 4-years-old.

maternal grandparents renewed their petition. A hearing on the guardianship and termination of parental rights petitions was held in September and November 2010. In separate orders issued on September 30, 2011, the Family Court granted DFS' petition to terminate the parents' rights in the child, and denied the grandparents' petition for guardianship.

3. Our review of the termination of parental rights by the Family Court “involves a review of the facts and law, as well as the inferences and deductions made by the trial court.”<sup>4</sup> Legal rulings are reviewed *de novo*; and factual findings are reviewed “to assure that they are sufficiently supported by the record and are not clearly wrong.”<sup>5</sup> Absent legal error, “our review is limited to abuse of discretion.”<sup>6</sup>

4. Parents' claim that the Family Court abused its discretion by denying maternal grandparents' guardianship petition “without adequate support from the record” and based on an erroneous best-interests analysis. Because the maternal grandparents have not appealed from the Family Court's adverse order, the parents

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<sup>4</sup> *Powell v. DSCYF*, 963 A.2d 724, 730 (Del. 2008).

<sup>5</sup> *Id.* at 731.

<sup>6</sup> *Id.*

<sup>6</sup> *Id.*

lack standing to prosecute an appeal from the Family Court's order denying grandparents' guardianship petition.<sup>7</sup>

5. Parents next claim is that the Family Court's determination that, under the statutory best-interests factors termination of the parents' rights was in the child's best interests, was fatally flawed. Parents claim that the Family Court erroneously concluded that the following factors "support[ed]" termination of the parents' rights: (i) the wishes of the parents; and (ii) the child's relationship with her parents, family members and other "persons who may significantly affect the child's best interests."<sup>8</sup>

6. The Family Court determined that the "wishes of the child's parent[s]" factor did "not support the parents," because Father had previously stated that he "no longer wished to work toward reunification with [the child]" and Mother "did not attend the second day of the Termination of Parental Rights Hearing." The court "assume[d]" that Mother's "absence [meant] that she does not oppose the termination of her parental rights." On appeal, parents argue that both determinations were erroneous, because Mother and Father "very clearly" and "unequivocally" opposed a termination of their parental rights. The record, as recited in the parties' briefs, reflects that both parents had at times expressed a

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<sup>7</sup> *Hughes v. DFS*, 836 A.2d 498, 506 (Del. 2003) ("[T]his Court has no jurisdiction to consider the [parent's] challenge to the Family Court's decision [denying a relative's guardianship petition].").

<sup>8</sup> 13 *Del. C.* § 722(a)(3).

desire to retain their parental rights, but at other times had indicated—by words and acts—that they did not oppose the termination of those rights. Based on that record, the Family Court did not abuse its discretion by determining that the “wishes of the child’s parent[s]” factor did not “support” the parents retaining their parental rights in the child.

7. Parents also claim that the Family Court’s analysis of the child’s interaction with her family members (a separate best-interests factor) was erroneous, because the court failed to consider the child’s relationships with any family members other than her parents. Specifically, the Family Court observed that the child had little or diminished interaction with either parent, and concluded that that “factor does not support the parents.” Parents contend that that conclusion “completely ignored” the “unrebutted evidence” of the child’s relationship with other family members, making the best-interests analysis “fundamentally flawed.” The record evidence, parents argue, indicated that the child had a “strong relationship” with her siblings and grandparents, and were a “close-knit family.” The child, however, was less than two-years-old when the termination of parental rights hearing was held, and less than three-years-old when the Family Court issued its order. In these circumstances, the Family Court’s decision to focus on the interactions between the child and her parents when analyzing this factor, was

not an abuse of discretion. Accordingly, the parents' challenge to the Family Court's best-interests analysis lacks merit.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Family Court is **AFFIRMED**.

BY THE COURT:

/s/ Jack B. Jacobs  
Justice