

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Martha Bagwell and W. Ronald Bagwell, Sr.,
Respondents,

v.

Patrick Weber and Edna Weber, Appellants.

In the interest of a minor under the age of eighteen.

Appellate Case No. 2015-001337

Appeal From Aiken County
William J. Wylie, Jr., Family Court Judge

Unpublished Opinion No. 2016-UP-398
Submitted July 27, 2016 – Filed August 1, 2016

AFFIRMED

John D. Elliott, of Law Offices of John D. Elliott P.A., of
Columbia, for Appellants.

Katherine Carruth Goode, Attorney at Law, of
Winnsboro, for Respondents.

Jacqueline Fogle Busbee, of Busbee Law Firm, of
Wagener, as Guardian ad Litem.

PER CURIAM: Edna Ruth Weber (Paternal Grandmother) and Patrick Weber (Father) appeal the family court's order terminating Father's parental rights to his minor daughter (Child) and finding adoption by Martha Bagwell and W. Ronald Bagwell Sr. (Maternal Grandparents) is in Child's best interest. We affirm.

On appeal from the family court, this court reviews factual and legal issues de novo. *Simmons v. Simmons*, 392 S.C. 412, 414, 709 S.E.2d 666, 667 (2011); *see also Lewis v. Lewis*, 392 S.C. 381, 386, 709 S.E.2d 650, 652 (2011). Although this court reviews the family court's findings de novo, we are not required to ignore the fact that the family court, which saw and heard the witnesses, was in a better position to evaluate their credibility and assign comparative weight to their testimony. *Lewis*, 392 S.C. at 385, 709 S.E.2d at 651-52.

We find TPR is in Child's best interest.¹ *See* S.C. Code Ann. § 63-7-2570 (Supp. 2015) (providing the family court may order TPR upon finding a statutory ground for TPR is satisfied and TPR is in the child's best interest); S.C. Code Ann. § 63-7-2620 (2010) ("The [interest] of the [child] shall prevail if the [child's] interest and the parental rights conflict."); *S.C. Dep't of Soc. Servs. v. Sarah W.*, 402 S.C. 324, 343, 741 S.E.2d 739, 749-50 (2013) ("Appellate courts must consider the child's perspective, and not the parent's, as the primary concern when determining whether TPR is appropriate."). When Child was born in early 2011, she tested positive for cocaine. As a result, Child was removed from her mother (Mother) and Father. When Child was approximately six months old, she was placed with Maternal Grandparents, and she has remained with them since that time. Although DSS provided a treatment plan for Father to help him overcome his drug addiction,

¹ Father does not appeal the statutory grounds for TPR, and we decline to address them. *See Ex parte Morris*, 367 S.C. 56, 65, 624 S.E.2d 649, 653-54 (2006) ("This unappealed ruling is the law of the case and requires affirmance."); *id.* at 65, 624 S.E.2d at 654 (acknowledging "procedural rules are subservient to the court's duty to zealously guard the rights of minors" but declining to "exercise [its] discretion to avoid application of the procedural bar" (quoting *Joiner ex. rel Rivas v. Rivas*, 342 S.C. 102, 107, 536 S.E.2d 372, 374 (2000))).

Father did not comply with that plan. DSS eventually closed its case, leaving custody of Child with Maternal Grandparents.

Father has not visited with Child since October 2012, when Mother passed away. We acknowledge there was acrimony between Father and Maternal Grandparents following Mother's death; however, the undisputed evidence shows Father took no action to enforce his parental right to visit with Child. During the TPR hearing, Father admitted he never called Maternal Grandparents following Mother's death to request visitation. As a result of Father's inactions, Child—who has not seen Father in more than three years—does not have an enduring bond with him.

In contrast, Child has lived with Maternal Grandparents for the past five years—since she was six months old. Maternal Grandparents have provided a stable and loving home for Child and have acted as parental figures for her. Thus, viewed from Child's perspective, we find TPR and adoption by Maternal Grandparents is in Child's best interest.

AFFIRMED.²

LOCKEMY, C.J., and WILLIAMS and MCDONALD, JJ., concur.

² We decide this case without oral argument pursuant to Rule 215, SCACR.