Note: In the case title, an asterisk (*) indicates an appellant and a double asterisk (**) indicates a cross-appellant. Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2018-036

AUGUST TERM, 2018

In re E.F. & O.F., Juveniles	}	APPEALED FROM:
(S.F., Father* & L.F., Mother*)	}	
	}	Superior Court, Chittenden Unit,
	}	Family Division
	}	
	}	DOCKET NO. 98/99-3-16 Cnjv
		Trial Judge: Alison S. Arms

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

Mother and father appeal from the termination of their residual parental rights in E.F. and O.F. They do not challenge the merits of the court's decision to terminate their rights. Instead, they challenge the court's transfer of custody to the children's foster parents. We affirm.

The children were taken into the custody of the Department for Children and Families (DCF) in March 2016 due to severe neglect. Parents stipulated that the children were in need of care or supervision. The children have been in the same foster home since April 2016. By choice, parents have not seen the children since September 2016; they did not appear at the TPR hearing. Following the hearing, the court found that parents clearly stagnated in their ability to parent and that all of the statutory best-interest factors favored termination of their rights. It thus terminated parents' residual rights.

Much of the court's decision focused on whether custody of the children would be continued with DCF or transferred to the children's foster parents. DCF informed the court that, if awarded custody, it intended to remove the children from their foster home and place them with a paternal aunt in Minnesota. We find it unnecessary to recite the court's extensive findings on this issue as there is no appealing party with standing to challenge the court's placement decision. Essentially, the court concluded for numerous reasons that transferring custody of the children to the foster parents was in the children's best interests. See In re J.M., 2005 VT 62, ¶ 9, 178 Vt. 591 (mem.) ("The disposition most suited to meet the child's needs is a discretionary decision the family court must make after considering the options the parties present."). Parents appealed from the court's termination order. Paternal aunt and paternal grandmother also filed a notice of appeal. In a five-Justice entry order, the Court dismissed the latter appeal for lack of standing. As we explained, only individuals who are parties can appeal a final judgment, In re Beach Props., Inc., 2015 VT 130, ¶ 14, 200 Vt. 630, and aunt and grandmother were not parties. Aunt and grandmother then requested permission to file an amicus brief, which was granted.

Parents argue that the court did not appropriately weigh the children's Jewish heritage in reaching its custody decision. They appear to suggest that, despite the termination of their residual parental rights, the court was obligated to give "due consideration" to their views regarding the

children's spiritual development. Parents assert in a footnote that they are pursuing this appeal "on their own behalf," and that they therefore have a "direct, personal stake" in the custody determination. They cite In re L.H., 2018 VT 4, in support of this assertion.

Parents' attempt to challenge the court's disposition decision is inconsistent with caselaw directly on point. See, e.g., In re R.B., 2015 VT 100, ¶ 19, 200 Vt. 45 (rejecting parents' attempt to challenge placement decision in TPR appeal); In re T.T., 2005 VT 30, ¶ 8, 178 Vt. 496 (mem.) (recognizing that termination decision is distinct from placement decision and that mother was not appropriate person to challenge trial court's rejection of her proposed kinship placement in TPR appeal). As we explained in R.B., the "only question presented with respect to parents [in a TPR appeal] is whether the court erred in terminating their residual parental rights." In re R.B., 2015 VT 100, ¶ 19. "Any question about the children's placement has no bearing on whether the court erred in terminating parents' rights and it follows that parents have no standing to challenge the placement decision here." Id. Parents do not acknowledge these cases or attempt to distinguish them. Their reliance on L.H., which involved a different question, is misplaced. See 2018 VT 4, ¶ 9 (concluding that parents had "standing to raise the issue of whether [a DCF attorney] had a conflict due to [the attorney's] prior representation of the children" in juvenile proceedings). In L.H., we concluded that the parents had "a legally cognizable interest in their continued relationships with the[ir] younger children that is sufficiently impacted by [the attorney's] alleged conflicts of interest to support parents' standing to raise the issue." Id. The same is not true here. As set forth above, the court's placement decision has no bearing on the question of whether the court erred in terminating parents' rights. We thus conclude that, as in R.B., parents lack standing to challenge the court's placement decision.

Amici similarly attempt to challenge the court's placement decision. As noted above, amici are not parties in this case and they lack standing to raise individualized claims of error. See In re Beach Props., Inc., 2015 VT 130, ¶ 14; see also Nat'l Comm'n On Egg Nutrition v. F.T.C., 570 F.2d 157, 160 n.3 (7th Cir. 1977) (concluding that argument raised in amicus brief not properly before court as argument was not made by party below or on appeal). We do not address amici's arguments. We find no error in the court's decision.

Affirmed.

BY THE COURT:

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Paul L. Reiber, Chief Justice

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Beth Robinson, Associate Justice

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Karen R. Carroll, Associate Justice