



have young children or are pregnant. As a prerequisite for being admitted to the Lund Center, mother went to another residential treatment facility, where she was diagnosed with post-traumatic stress disorder, post-partum depression, and severe opioid disorder. Mother resided at the Lund Center from March 1, 2017 until G.B.'s birth in early June of that year. Mother did well at the Lund Center except for one incident when, while out on a day pass, she got in a physical altercation with M.G.'s custodian about not having any visits with M.G. As the result of that incident, criminal charges were brought against mother, and M.G.'s custodian obtained a relief-from-abuse order.

After mother gave birth to G.B. at a hospital, the Lund Center refused to allow mother to return there because other residents had reported that mother was placing residents at risk by connecting female residents with outside males. Because mother could not return to the Lund Center, DCF revised a planned CHINS petition from seeking a conditional custody order (CCO) to seeking transfer of custody to the Department.

Mother's assigned attorney withdrew as mother's attorney after mother accepted her proposal for mother and G.B. to live at the home of the attorney and her husband and two children. The family division granted conditional custody to the attorney on a short-term basis—only until a follow-up hearing—with numerous conditions, including that mother be supervised with G.B. at all times. During the weeks mother lived at the custodian's home before a July 2017 hearing, mother was G.B.'s primary caregiver and did well in that role. At the hearing, notwithstanding mother's request that she be given conditional custody of G.B., the court decided to continue the then-current CCO with a modification that allowed mother to take G.B. to appointments in the community unsupervised.

Problems between mother and the custodian arose shortly after the hearing. In one incident, mother failed to inform the custodian of her plan to take G.B. to meet father. Tensions between mother and the custodian continued to mount throughout late July and early August over several issues, including whether mother should stay home and continue to nurse G.B. or either go back to school or get a job, and whether mother was endangering G.B. by sleeping with the infant.

On August 4, 2017, after mother and the custodian argued over the co-sleeping issue, mother left the home with G.B. at eleven o'clock at night and did not return until four o'clock in the morning, by which time the custodian had already called the police. Shortly after this incident, the family division issued an emergency order requiring mother to vacate the custodian's home and prohibiting her from having any unsupervised contact with G.B. At a hearing on August 7, 2017, the court modified the CCO to give mother two hours a day of supervised visitation. Although the custodian had represented at the August 7 hearing that she was open to mother returning to her home, no meeting was ever set up to discuss that possibility. By late August, after realizing that G.B. would not be with her and she could no longer nurse him, mother became distraught and wound up in the hospital for an involuntary psychiatric examination to determine whether she was at risk of committing suicide.

In September 2017, mother relapsed, and the family division suspended visits. The following month, the family division held a CHINS merits hearing, after which the court adjudicated G.B. CHINS based on parents' continued struggles with mental-health issues and substance abuse, their failure to consistently follow through on visits with R.B., and father's criminal history. In November 2017, neither parent appeared at a termination hearing concerning R.B.

That same month, as DCF prepared an initial disposition report calling for termination of the parents' parental rights with respect to G.B., G.B.'s attorney filed a termination petition. At

the same time, mother reached out to DCF for visits and began visiting G.B. at the DCF office. DCF contacted G.B.'s custodian about meeting to discuss a visitation plan for mother, but a meeting never occurred. Mother's downward spiral continued in early 2018, as she became involved in an abusive relationship.

In June 2018, mother began getting medication-assisted treatment for her substance-abuse disorder and started seeing a therapist to address her mental-health needs. She also contacted DCF about visiting G.B. and agreed to sign releases for DCF to see her urinalysis test results going forward. Mother stopped using illegal drugs in August 2018 and got a steady job in September 2018.

A hearing on the proposal to terminate parental rights at initial disposition was held over three days in October 2018 and January 2019. Following the hearing, in a February 7, 2019 decision, the family division granted the petition to terminate father's parental rights, denied the petition to terminate mother's parental rights, and ordered DCF to prepare a new disposition case plan within thirty days. In denying the petition with respect to mother, the court examined the four best-interests criteria set forth in 33 V.S.A. § 5114(a). As for the first criterion concerning G.B.'s important relationships, the court found that mother and G.B. formed an attachment during his first eight weeks of life when she was his primary caregiver, that the durability of this relationship was unclear because G.B. was now nineteen months old and had not seen mother in over a year, and that G.B. was closely bonded to his custodians, with whom he had spent his entire life.<sup>3</sup> Regarding the second criterion, the court found G.B. was well-adjusted to his home and his day care. Regarding the fourth criterion, the court found that mother had played a constructive role in G.B.'s life during her pregnancy with him and for the first two months after his birth and that, although her lengthy relapse prevented her from playing a constructive role in his life for the previous seventeen months, she was once again in a position to do so. As for the most important third criterion, the court concluded that mother would be able to resume her parental duties within a reasonable period of time, given that she had been drug-free for the previous six months, was actively engaged in treatment for her substance-abuse disorder, had been pursuing mental-health therapy, and had stable employment and housing.

On April 11, 2019, DCF filed a new case plan for G.B. recommending a goal of reunification with mother pursuant to a limited timeline. The plan also called for G.B.'s custody to be transferred from his custodians to DCF. A disposition hearing was held over three days in April, August, and October 2019. Due to the length of time it took to complete the contested hearing, the parties agreed to a new timeline in the DCF plan for increasing parent-child contact. Following the hearing, in a November 20, 2019 decision, the court concluded that the transfer of custody to DCF and the goal of reunification with mother both furthered G.B.'s best interests. The court explained that mother's remarkable progress during the past fifteen months sufficiently addressed the barriers to reunification resulting from her past substance abuse, history of instability, and difficulty regulating her emotions. As for the other principal barriers—G.B.'s young age, the length of time since he had seen mother, and his strong attachment to his guardians—the court found that recent visits with mother had gone well and that G.B.'s difficulty in transitioning between home and visits were not unexpected and could be addressed, in part, by having DCF rather than the guardians transport G.B. to and from the visits. Regarding G.B.'s request for a concurrent goal of adoption, the court concluded that the absence of a concurrent goal of adoption was not a reason to reject the plan because mother's failure to meet the expectations

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<sup>3</sup> Earlier, the court added the husband of mother's former attorney as a custodian.

set forth in the case plan “would constitute a substantial change of circumstances sufficient to amend the goal of the plan at that time.”

On appeal, G.B. argues that the family division erred by: (1) denying his termination petition because, from his perspective, termination was in his best interests; and (2) ordering a disposition plan with a single goal of reunification with mother. Mother opposes G.B.’s position, and DCF joins in mother’s brief.

Noting that the paramount goals in CHINS proceedings are protecting children’s safety and establishing permanency in their lives, see In re A.G., 2004 VT 125, ¶ 17, 178 Vt. 7, G.B. first argues that the clear and convincing evidence in this case plainly demonstrated that the statutory best-interest criteria—particularly the most important third criterion concerning whether the parent would be able to resume parental duties within a reasonable period of time from the perspective of the child—compel termination of mother’s parental rights. In support of this argument, G.B. points to mother’s past history with her other children, her past lengthy drug relapses following periods of sobriety, her lengthy absence from most of G.B.’s young life, and G.B.’s strong bond with his custodians, with whom he has spent his entire life. According to G.B., given the undisputed facts in this case, a reasonable period of time, from his perspective, for mother to resume her parental duties had already passed at the time of the termination hearing.

We conclude that the record supports the family division’s termination decision. See In re D.S., 2014 VT 38, ¶ 22, 196 Vt. 325 (“As long as the court applied the proper standard, we will not disturb its findings unless they are clearly erroneous, and we will affirm its conclusions if they are supported by the findings.” (quotation omitted)). Although past events in a parent’s life are unquestionably relevant in determining whether the parent will be able to resume parental duties within a reasonable period of time from the child’s perspective, that “inquiry must be forward-looking, that is, the court must consider a parent’s prospective ability to parent the child.” Id. (quotations omitted). That is precisely what the court did here. The court recognized and addressed each of the concerns G.B. raises in this appeal. Addressing G.B.’s concerns about mother’s past relapses, the court noted that the circumstances were different this time because for the first time mother was employed, had stable housing, had fully engaged in mental-health therapy and begun to gain insight into what triggered her relapses, and had managed to recover from abusing drugs even without her children living with her. Thus, the court concluded that mother was far better positioned to resume her parental duties than at any time in the past. As for G.B.’s young age, mother’s long absence from his life, and his strong bond with his custodians, the court recognized in its decision denying the termination petition that the durability of mother’s bond with G.B. was unclear, given his young age and the lengthy period without contact; however, the court found no evidence that G.B. had developmental delays that could be exacerbated by transitioning from one primary parent to another, and it determined that DCF could address and consider any negative consequences resulting from any such transition. Later, in its disposition order, the court found that mother’s visits with G.B. had gone “remarkably well,” that it was not unusual for some emotional dysregulation after visits in circumstances such as this, and that this issue could be addressed in part by having DCF, rather than the custodians, involved in transfers between home and visits. The evidence supports the court’s findings, which, in turn, support the court’s conclusions. Accordingly, we find no basis to overturn the court’s termination order.

G.B. also argues that, given the circumstances of this case, the family division erred by not requiring that DCF’s disposition plan include concurrent goals of reunification and adoption, rather than a single goal of reunification. G.B.’s concern is that he would need to show changed circumstances to modify the order adopting a plan calling only for reunification, which could further delay permanency for him. Again, we find no basis to reverse the court’s disposition order.

A disposition case plan “shall” include a primary permanency goal and “may identify a concurrent permanency goal.” 33 V.S.A. § 5316(b)(1). Here, the family division declined to reject the case plan, explaining that mother’s failure to follow the case plan would plainly constitute a change of circumstances sufficient to amend the case plan goal. The record supports the court’s reasoning.

Affirmed.

BY THE COURT:

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Beth Robinson, Associate Justice

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Harold E. Eaton, Jr., Associate Justice

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Karen R. Carroll, Associate Justice