



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

AUGUST TERM, 2022

In re M.C., Juvenile	}	APPEALED FROM:
(M.G., Father*)	}	
	}	Superior Court, Chittenden Unit,
	}	Family Division
	}	CASE NO. 529-11-18 Cnjv
	}	Trial Judge: Kirstin K. Schoonover

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

Father appeals the court’s denial of his motion to change the existing disposition order and place juvenile M.C. into the custody of the Department for Children and Families (DCF). We dismiss for lack of a final judgment.

Juvenile was born in August 2018 and placed in DCF custody in November 2018. The State filed a petition alleging that juvenile was a child in need of care or supervision (CHINS) and in November 2018 the parties stipulated that juvenile was a CHINS due to the risk of harm from mother’s alcohol abuse. The resulting case plan had a goal of reunification with mother or father. In December 2019, conditional custody was initially granted to mother. In June 2020, conditional custody was granted to mother’s former stepfather. His partner also helped care for M.C.

In June 2021, father filed a motion to transfer custody to paternal grandfather, who lives in Texas. Three days later, juvenile filed a petition to terminate parental rights (TPR). Father then withdrew his motion and instead requested that an Interstate Compact on the Placement of Children (ICPC) home study be expedited for paternal grandfather’s residence. In November 2021, the court approved the request. DCF subsequently informed the court that Texas would not proceed with an ICPC home study since M.C. was in conditional custody and not in DCF custody.

In March 2022, after father was granted new counsel, he filed a motion to amend the existing disposition order and transfer custody to DCF so that the ICPC for grandfather’s home could be completed. At the hearing on father’s motion, DCF represented that even if custody was transferred to DCF, it would not change juvenile’s placement. The court made a self-titled “preliminary ruling” on the record indicating that the court was inclined to grant the motion. The court subsequently denied the motion in a written order. The court found that M.C. was happy and secure in his current placement, that he has been subject to a CHINS proceeding for most of

his life, and that his current placement offered permanency. The court concluded that removing M.C. now when the TPR proceeding was pending was not in his best interests. The court noted the sole reason to grant DCF custody would be to accommodate Texas and complete the ICPC request. Father moved to reconsider, which was summarily denied.

On appeal, father argues that the family court abused its discretion in denying his motions for DCF custody and to reconsider. We do not reach the merits of father's appeal because we conclude that there is no final appealable order. See In re G.B., 2019 VT 48, ¶ 8, 210 Vt. 431 (explaining that appealable order is one that finally disposes of case and settles rights of parties). In juvenile proceedings, disposition orders are final and may be appealed. 33 V.S.A. § 5318(d). The order father seeks to appeal in this case does not settle the rights of the parties and is not a disposition order; it is a temporary order declining to make any change to the existing disposition. The order itself indicates that the hearing on the TPR petition would be held in less than a month and that father could reiterate his request for DCF custody again after that hearing. The court indicated father's request was being denied "at this time." For the same reasons, the denial of the motion to reconsider is not a final order.

Because there was no final judgment and father did not seek permission for interlocutory review, we dismiss the appeal.

The appeal is dismissed for lack of a final judgment.

BY THE COURT:

Karen R. Carroll, Associate Justice

William D. Cohen, Associate Justice

Nancy J. Waples, Associate Justice