NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2011 CJ 1559

STATE OF LOUISIANA IN THE INTEREST OF J.A.H.

Judgment Rendered: December 21, 2011

Appealed from the
Juvenile Court
In and for the Parish of East Baton Rouge, Louisiana
Docket Number JU11425

Honorable Pamela Taylor Johnson, Judge Presiding

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BEFORE: WHIPPLE, KUHN, AND GUIDRY, JJ.

WHIPPLE, J.

In this proceeding to involuntarily terminate parental rights, the trial court rendered judgment terminating the parental rights of the minor child's mother, and the mother appeals. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

On April 21, 2010, the State of Louisiana, Department of Social Services, Office of Community Services (now entitled the Department of Children and Family Services, but hereinafter referred to as "the State"), initiated proceedings to terminate the parental rights of M.H., the mother, and S.D., the father, regarding their minor son J.A.H., who was ten years old at the time. In the petition, the State alleged that J.A.H. and his brother came into the State's custody on October 1, 2008, due to M.H.'s incarceration and that J.A.H. had remained continuously in the State's custody since that time, a period in excess of eighteen months. The State further averred that, since the time that J.A.H. entered the State's custody, M.H. had failed to substantially comply with the case plans developed by the State in an effort to achieve reunification of J.A.H. and M.H.

Specifically, the State alleged:

> A. [M.H.] has not maintained safe and stable housing for her child.
> B. [M.H.] recently admitted that she knew that [J.A.H.] had been raped by his older brother .... [M.H.] failed to seek medical and mental health treatment for [J.A.H.] or meet his emotional needs.
> C. [M.H.] has attended therapeutic visits with [J.A.H.;] however, due to her uncontrollable behavior she has exhausted the services of more than four therapists who were either fired by her, or refused to treat her.
> D. [M.H.] was referred to Discovery's Strengthening Families Parenting sessions to address personal hygiene, housekeeping, and ways of parenting with a mental health diagnosis. She refused to participate in these services.
> E. [M.H.] has failed to provide proof of ongoing mental treatment or sign [a] medical release for said information.

F. [M.H.] did participate in a psychological evaluation on January 24, 2009[;] however, she has failed to follow the recommendations of the therapist.
G. [M.H.] failed to demonstrate appropriate parenting skills while visiting with [J.A.H.].

The State further averred that M.H. had been non-compliant, had a pattern of hostile participation, and had committed offenses resulting in her incarceration, during which time she was not available for services. Thus, the State alleged that, due to [M.H.]'s history and pattern of behavior, there was little likelihood of reformation of her conduct in the near future.[1] Based on these allegations, the State sought a judgment permanently terminating the parental rights of M.H. as to J.A.H. and freeing J.A.H. for adoption.

A hearing on the petition for the termination of parental rights of M.H. was conducted on September 2, 2010, and October 6, 2010. In oral reasons for judgment, the trial court found that the State had proved by clear and convincing evidence the grounds for termination of parental rights set forth in LSA-Ch.C. art. 1015(5) and that the termination of M.H.s' parental rights was in J.A.H.'s best interests. Accordingly, by judgment dated March 30, 2010,[2] the trial court permanently and irrevocably terminated M.H.'s parental rights relative to J.A.H.

From this judgment, M.H. appeals, contending that the trial court erred in: (1) terminating M.H.'s parental rights by erroneously finding that she did not follow her case plan; (2) refusing to allow testimony as to why one minor child was returned to M.H. while J.A.H. remained in the State's

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[1]With regard to the father, S.D., whose whereabouts were unknown, the State averred that S.D. had no relationship with J.A.H. and had had no visits or communication with him. Additionally, the State averred that S.D. had not paid any financial support for J.A.H., nor had he ever purchased any gifts, food, or clothing for him. As part of the judgment on appeal herein, the trial court also terminated the parental rights of S.D., but that portion of the judgment was not appealed and, thus, is not before this court. Accordingly, we will not address the proceedings regarding the termination of S.D.'s parental rights.

[2]Although the judgment is dated March 30, 2010, the record reflects that it was actually signed on March 30, 2011.

custody with M.H.'s parental rights as to J.A.H. ultimately being terminated; (3) finding that M.H. could not be reformed; (4) ordering termination of M.H.'s parental rights when the State did not meet its burden of proof pursuant to LSA-Ch.C. art. 1015; and (5) failing to consider the fundamental liberty interest of M.H.

DISCUSSION

Testimony Regarding Return of Another Minor Child to M.H. (Assignment of Error No. 2)

In this assignment of error, M.H. contends that the trial court erred in refusing to allow testimony as to why the State returned her thirteen-year-old son to her custody while at the same time maintaining custody of J.A.H. with the State. Because evidentiary issues can affect the standard of review applied by this court, we address these issues first. Devall v. Baton Rouge Fire Department, 2007-0156 (La. App. 1st Cir. 11/2/07), 979 So. 2d 500, 502.

With regard to the ruling which M.H. challenges on appeal, counsel for M.H. was questioning the case worker with regard to the fact that two of M.H.'s children had been taken into the State's custody. When counsel attempted to elicit testimony about custody and placement of the other child, the State objected on the grounds of relevancy. The trial court sustained the objection, noting that it was only concerned about the child at issue is these proceedings, J.A.H. Notably, counsel for M.H. did not at that point or thereafter make any attempt to proffer the testimony regarding the other child that M.H. now claims was erroneously excluded. A party is precluded from complaining of the alleged erroneous exclusion of testimony where the party does not proffer that testimony. McClean v. Hunter, 495 So. 2d 1298, 1305 (La. 1986); Magee v. Pittman, 98-1164 (La. App. 1st Cir. 5/12/00), 761

So. 2d 731, 742, writ denied, 2000-1694 (La. 9/22/00), 768 So. 2d 31. Thus, M.H. failed to preserve this issue for appeal.

Moreover, even if this issue had been properly preserved, we would find no abuse of the trial court's discretion in excluding the testimony. In termination proceedings, the parent has the right to introduce evidence, call witnesses, and cross-examine witnesses called by the State. LSA-Ch.C. art. 1034(A). Nonetheless, the evidence sought to be introduced must be relevant. See LSA-C.E. art. 402 & LSA-C.Ch. arts. 105 & 1002; also see generally State in the Interest of A.D.S., A.T.S. and J.D.S., 2004-0250 (La. App. 4th Cir. 9/29/04), 888 So. 2d 913, 917-918. A determination of whether evidence is relevant is within the trial court's discretion, and its ruling will not be disturbed on appeal absent a clear abuse of discretion. Raney v. Wren, 98-0869 (La. App. 1st Cir. 11/6/98), 722 So. 2d 54, 58.

In the instant case, the court below had to determine whether M.H.'s parental rights should be terminated as to J.A.H., not as to any of her other children. Thus, the issues before the court were whether M.H. had failed to follow the case plan **as to J.A.H.** and whether termination of her parental rights as to J.A.H. was in his best interests. Moreover, the record before us demonstrates that one issue prevalent in this case was M.H.'s ability to provide J.A.H. with a safe environment. M.H. herself testified that one of her sons had been returned to her custody and further admitted that the son who had been returned to M.H.'s custody was "very aggressive" toward J.A.H. Clearly, the needs of each child may differ, as may the parent's ability to provide for those needs. Considering the record before us and especially considering the nature of the particular needs of J.A.H., we cannot say that the trial court abused its discretion in excluding testimony with regard to the return of one of her other children to M.H., as the return of that

child was not relevant to the issue of whether M.H.'s parental rights should be terminated as to J.A.H.[3]

Accordingly, this assignment of error lacks merit.

Termination of M.H.'s Parental Rights
(Assignments of Error Nos. 1, 3, 4, & 5)

In her remaining assignments of error, M.H. challenges the trial court's findings regarding her compliance with the case plan and her ability to be reformed, as well as the trial court's ultimate determination that her parental rights as to J.A.H. be terminated. In proceedings to involuntarily terminate parental rights, the court must carefully balance the private interests of the child and the parent. While parents have a natural, fundamental liberty interest in the continuing companionship, care, custody, and management of their child, the child has a profound interest, often at odds with those of his parents, in terminating parental rights that prevent adoption and inhibit establishing secure, stable, long-term, and continuous relationships found in a home with proper parental care. State in the Interest of J.M., J.P.M., and M.M., 2002-2089 (La. 1/28/03), 837 So. 2d 1247, 1252; State in the Interest of L.B. v. G.B.B., 2002-1715 (La. 12/4/02), 831 So. 2d 918, 921.

Title X of the Louisiana Children's Code governs the involuntary termination of parental rights, and article 1015 provides the specific grounds for which parental rights may be terminated. In order to terminate parental rights, the court must find that the State has established at least one of the statutory grounds contained in LSA-Ch.C. art. 1015 by clear and convincing evidence. LSA-Ch.C. art. 1035(A); State in the Interest of J.M., J.P.M., and

[3]Additionally, we note that because M.H. herself testified later in the trial that one of her sons had been returned to her custody, she did present evidence of that child's return despite the court's earlier ruling limiting testimony to events or actions concerning J.A.H.

M.M., 837 So. 2d at 1253. Further, even upon finding that the State has met its evidentiary burden, a court still should not terminate parental rights unless it determines that to do so is in the child's best interests. LSA-Ch.C. art. 1037(B)[4]; State in the Interest of J.M., J.P.M., and M.M., 837 So. 2d at 1253.

Permanent termination of the legal relationship existing between natural parents and children is one of the most drastic actions the State can take against its citizens. However, the primary concern of the courts and the State remains to determine and secure the best interests of the child, which includes termination of parental rights if justifiable statutory grounds exist and are proven by the State. State in the Interest of J.M., J.P.M., and M.M., 837 So. 2d at 1254. Thus, in determining whether M.H.'s parental rights should be terminated, the court below had to determine: (1) whether the State had established at least one of the grounds for termination set forth in LSA-Ch.C. art. 1015; and (2) whether it was in J.A.H.'s best interests to terminate M.H.'s parental rights. On appellate review, this court will review the trial court's findings that the State had established at least one ground for termination of M.H.'s parental rights and that termination of M.H.'s parental rights was in J.A.H.'s best interests under the manifest error standard of review. State in the Interest of T.R., W.R., and P.R., 2009-2203 (La. App. 1st Cir. 5/13/10), 38 So. 3d 1152, 1155, writs denied, 2010-1371, 2010-1388 (La. 6/30/10), 39 So. 3d 583, 584.

I. Grounds for Termination of Parental Rights under LSA-Ch.C. art. 1015

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[4]Louisiana Children's Code article 1037(B) provides, in pertinent part:

> When the court finds that the alleged grounds set out in any Paragraph of Article 1015 are proven true by the evidentiary standards required by Article 1035 and that it is in the best interests of the child, it shall order the termination of the parental rights of the parent against whom the allegations are proven.

In the instant case, the State sought to terminate M.H.'s parental rights on the grounds set forth in LSA-Ch.C. art. 1015(5), which provides as follows:

> Unless sooner permitted by the court, at least one year has elapsed since a child was removed from a parent's custody pursuant to a court order; there has been no substantial parental compliance with a case plan for services which has been previously filed by the department and approved by the court as necessary for the safe return of the child; and despite earlier intervention, there is no reasonable expectation of significant improvement in the parent's condition or conduct in the near future, considering the child's age and his need for a safe, stable, and permanent home.

Thus, the State had to establish by clear and convincing evidence all three components of LSA-Ch.C. art. 1015(5)—the lapse of at least one year since J.A.H. was removed from M.H.'s custody, failure of M.H. to substantially comply with the case plan, and no reasonable expectation of significant improvement in M.H.'s condition or conduct in the near future.

In the instant case, J.A.H. has been in the State's custody since October 1, 2008, because M.H. was incarcerated at that time, and there were no known relatives willing to care for him. Thus, J.A.H. had been in the State's custody for a period of almost two years as of the September 2, 2010 trial date. Clearly more than one year had elapsed since J.A.H. was removed from M.H.'s custody, as required by LSA-Ch.C. art. 1015(5). See State in the Interest of T.R., W.R., and P.R., 38 So. 3d at 1157.

Regarding the issue of substantial compliance with the case plan, Children's Code article 1036(C) enumerates the substantive elements by which lack of substantial compliance with a court-approved case plan may be evidenced. Three of these elements include: (1) the parent's repeated failure to comply with the required program of treatment and rehabilitation services provided in the case plan; (2) the parent's lack of substantial

improvement in redressing the problems preventing reunification; and (3) the persistence of conditions that led to removal or similar potentially harmful conditions. LSA-Ch.C. art. 1036(C); see State in the Interest of T.R., W.R., and P.R., 38 So. 3d at 1157-1158.

In the instant case, three case plans were approved after J.A.H. was removed from M.H.'s custody. Shantell Johnson, a State child welfare specialist, testified that she was assigned to this case on October 1, 2008. Johnson conducted a family team conference on October 30, 2008, at the East Baton Rouge Parish prison due to M.H.'s incarceration. At the conference, the barriers to reunification were identified and discussed, and Johnson outlined the actions that M.H. was to take upon her release from jail in the October 30, 2008 case plan.[5] The case plan set forth the following issues that M.H. needed to address: (1) safe and stable housing; (2) M.H.'s mental health issues; (3) drug use in the home; (4) violence in the home; and (5) M.H.'s parenting skills. The subsequent case plans developed on April 8, 2009, and October 30, 2009, were substantially similar to the October 30, 2008 case plan.

With regard to housing, M.H. was to maintain safe and stable housing, including having food in the home and maintaining utilities at all times. However, when Johnson conducted a walk-through of the home after M.H.'s release from prison, Johnson determined that the home was not suitable for J.A.H. due to safety issues. Specifically, the home was filled with gnats, the glass pane for the front window was completely out, the floorboards in the living room were caving in, the tubs were "pitch black" from dirt, there was no food in the refrigerator, the refrigerator was molded and mildewed, the carpet was heavily soiled throughout the house, and there was soiled

clothing on the floor of every room. Johnson gave M.H. a week to correct these issues and made suggestions to M.H. as to how to do so. A subsequent inspection of the home revealed that M.H. had made some attempts to address the issues, in that she had placed cardboard over the broken window, cleaned the tub to a "ligher black," and swept the carpets, and there was sandwich meat in the freezer. Johnson testified at trial that at that point, she was of the opinion the house met the minimum standards as an acceptable home for children and that M.H. thereafter did maintain "minimal housing."

With regard to drug use in the home, in the October 30, 2008 case plan, Johnson noted that J.A.H., who was eight years old at the time he was placed in the State's custody, had given "very detailed instructions of how to cook crack cocaine, clean marijuana and the description of a crack pipe," thus raising concerns about potential drug use in the home. As such, M.H. was to submit to random drug testing and was to address the possibility that her husband was a substance abuser. M.H. did comply with random drug screening, and based on a negative drug test, it was determined that M.H. was not a substance abuser. However, a drug screen of her husband in December 2008 was positive for cocaine and marijuana.

M.H. related to Johnson that her plan to address her husband's drug use in the home was to leave him and get a divorce. However, despite M.H.'s subsequent claims to Johnson that her husband no longer resided in the home, Johnson observed the husband at the home between April and October 2009, revealing M.H.'s failure to comply with the case plan of maintaining a drug-free environment for her child as of the October 30, 2009 family team conference. Nonetheless, when asked at trial if she had the impression that M.H.'s husband was "no longer in the picture," Johnson

[5]M.H. was released from prison on October 31, 2008.

testified that M.H. no longer talked about him and that she had not seen any evidence of him being there when she would pass by the home. However, Johnson was not aware of M.H. having obtained a divorce, and it was her understanding that M.H. was still married to her husband. M.H. acknowledged at trial that she is still married, but maintained that her husband was no longer residing in the home and claimed that she was taking steps to obtain a divorce. Thus, while there may have been some compliance with this area of the case plan, some question still exists as to M.H.'s compliance with maintaining a drug-free environment at all times for J.A.H.

However, the most troubling issues addressed in the case plans and the overwhelming evidence of non-compliance therewith relate to M.H.'s mental health and parenting skills and the violence displayed toward J.A.H. The record before us reveals that while J.A.H. was in M.H.'s custody, he was subjected to physical, verbal, and sexual abuse. Specifically, J.A.H. was physically abused by his brothers, by M.H., and by M.H.'s husband. He also witnessed M.H.'s husband physically abusing M.H. Most disturbingly, however, J.A.H., who was the youngest of M.H.'s four sons, was raped by one of his older brothers while in M.H.'s custody.

To address these issues of violence in the home and M.H.'s parenting skills, the case plans provided that M.H. was to participate in domestic violence counseling and to participate in and successfully complete parenting education. Thus, Johnson referred M.H. to the Discovery Family Resource Project ("Discovery") for Strengthening Families parenting sessions to address M.H.'s need for parenting education and domestic violence counseling. However, M.H. declined the services, stating to the

director of Discovery that she did not need parenting classes and that no one could teach her about parenting.

The record further reveals that M.H. suffers from bipolar disorder, which has significantly interfered with her parenting abilities. Thus, in the initial case plan, M.H. was also required to participate in mental health treatment and follow all recommendations of the therapist. After Johnson had determined that the home met minimal standards on the second inspection, J.A.H. was physically placed back in M.H.'s home on November 20, 2008, with the State retaining legal custody. However, on January 8, 2009, M.H. was involuntarily admitted to the hospital for psychiatric evaluation on the basis that she was a danger to herself and others. Thus, J.A.H. was again removed from her home, and he was not returned to her home upon M.H.'s release from the hospital due to her mental health being another barrier to reunification.

After M.H.'s release from the hospital, Johnson referred M.H. to Dr. Seth Kehee, a clinical psychologist, who performed an evaluation of M.H. on January 24, 2009. With regard to his evaluation of M.H., Dr. Kehee noted that M.H. was quick to anger, appeared defensive at times, and was somewhat paranoid. Psychological testing revealed elevated scores in the hostility, paranoid ideation, total aggression, and verbal aggression scales. Additionally, the child abuse potential scale showed that M.H.'s attitudes toward children are shared in common with known child abusers, particularly with regard to physical child abuse. Regarding the elevated child abuse potential scale, Dr. Kehee testified that this score confirmed clinical impressions that M.H. would have difficulty ensuring the safety of her children. Based on the psychological testing performed, Dr. Kehee diagnosed M.H. with bipolar disorder and borderline personality disorder.

Although M.H. reported she was receiving mental health treatment at the Margaret Dumas facility and was taking her medication as directed, the case worker noted that M.H.'s behavior indicated that she did not always take her medication or that the medication was not effective on certain days. Additionally, as of the last family team conference on October 30, 2009, the records from the Margaret Dumas facility indicated that M.H. was not compliant with her prescribed psychotropic medication, her response to treatment was poor, and she did not maintain appointments.

Johnson also referred M.H. to Adrian Augusta, a licensed clinical social worker who was also treating J.A.H., for individual therapy. However, with regard to the first scheduled session with Augusta on July 29, 2009, M.H. did not show up for the appointment. Thus, the appointment was rescheduled for August 18, 2009. On that date, M.H. arrived fifty minutes late and was uncontrollable. Specifically, M.H. attempted to dominate the conversation, her thoughts were rambling, and she talked about various topics unrelated to the purpose of the session. Moreover, M.H. would not follow Augusta's attempts to redirect the focus of the session to her relationship with J.A.H.. According to Augusta, M.H. also attempted to justify her situation, portrayed herself as a victim, and often focused on Augusta's work with J.A.H., accusing Augusta of working with J.A.H. against her. Thus, Augusta recommended that M.H. be treated by another counselor and declined to see M.H. again.

Johnson then referred M.H. to Judy Coleman, a therapist suggested by M.H.'s counsel. However, Johnson testified that M.H. later "fired" Coleman. When questioned about firing Coleman, M.H. indicated that she saw Coleman once, but that Coleman was not "pro-reunification."

Pursuant to the case plans, M.H. was also required to participate in family therapy with J.A.H. and to display calm, positive behavior when in the presence of her children. The first therapeutic family session was scheduled for August 21, 2009, and was to be conducted by Discovery. However, M.H. became very upset and distraught that day upon signing some initial paperwork. Her behavior was described as "uncontrollable," with M.H. alternating between crying and being angry and stating that she did not know why J.A.H. did not love her and did not want to be with her. During her outbursts, J.A.H. "balled up in a corner," and Johnson eventually had to remove him from the room.

Following this session, Discovery declined any further monitoring of M.H.'s therapeutic family sessions. Thus, Johnson requested that Dr. Kehee oversee the visits.

Thereafter, Dr. Kehee supervised six family visits in September, October and November of 2009. However, Dr. Kehee related that the visits did not go well at all. Indeed, he described M.H.'s relationship with J.A.H. as "incredibly destructive." Specifically, whenever J.A.H. would attempt to explain his anger, M.H. would not allow him to finish his sentences and would tell him that he was wrong, causing J.A.H. to become more and more frustrated with the visit. Dr. Kehee would take M.H. aside and advise her on how to better conduct a family session with J.A.H., such as allowing J.A.H. to speak his mind even if she disagreed with him and listening to his thoughts. However, M.H. continuously interrupted J.A.H. J.A.H. also recounted several instances of abuse, but M.H. just denied that all of it happened.

Dr. Kehee testified that he did not see any improvement in the interaction between M.H. and J.A.H over the course of the family visits.

Instead, over time, the situation continued to deteriorate. According to Dr. Kehee, M.H. maintained steadfastly that J.A.H. was basically her property and that she owned him and, thus, M.H. seemed to think that J.A.H. should feel exactly as she said he should feel. Moreover, while Dr. Kehee observed that J.A.H. was "quite amazing" and a mature young man with an impressive ability to maintain his sense of reality, Dr. Kehee conversely noted that M.H. continuously tried to say that the things J.A.H. said were ridiculous, had no value, and were not true.

Dr. Kehee noted that while M.H. was willing to be at the family sessions, she participated only if everything went exactly the way she wanted it to go. However, if there were any constraints placed upon M.H. during the sessions, such as Dr. Kehee requiring turn-taking in conversation, M.H. would begin ranting and raving and acting at times like she was borderline psychotic.

With regard to the last family visit that Dr. Kehee supervised on November 27, 2009, Dr. Kehee testified that in his thirty-four years of clinical practice, he had never witnessed a more destructive family session. He related that M.H. and J.A.H.'s brothers were all present at the session, and the session began with each family member taking turns yelling at J.A.H. and scolding him for abandoning the family. J.A.H. refused to come fully into the room, but rather stood by the door, indicating to Dr. Kehee that J.A.H. wanted an "escape route." Each of his brothers "attack[ed]" J.A.H. in turn until finally M.H. got involved, appearing to become "borderline psychotic."

Dr. Kehee related that M.H. got "lost [in] a diatribe of how it was perfectly normal for women to be beaten by their husbands" and then talked about being "celibate for her children," a clearly inappropriate topic. She

went on about her legal problems and arrests and then accused Dr. Kehee and others of "brainwashing" J.A.H. Dr. Kehee testified that "it was clear that [M.H.] was de-compensating." When Dr. Kehee tried to calm M.H., she turned her anger on him and starting ranting that he was the devil. M.H. then began requesting that Jesus protect her and her children and cast Satan out of Dr. Kehee.

At that point, Dr. Kehee ended the session. While the children quickly left the room, M.H. refused to leave and started taking photographs of Dr. Kehee with a disposable camera. She then began snapping photographs of J.A.H.'s foster parents who had been in the waiting room. When she finally left Dr. Kehee's office, M.H. sat in her vehicle, taking photographs of the office building. Following this devastating family session, Dr. Kehee recommended that the family visits be terminated.

Thereafter, in February 2010, Johnson referred M.H. to Dana Andrus, a licensed marriage and family therapist, for individual and family sessions. Andrus developed a proposed treatment plan to explore the possibility of reunification, which involved meeting individually with M.H. as well as conducting family sessions with J.A.H. In the individual sessions, Andrus attempted to get M.H. to focus on her life and on what she could provide for J.A.H. However, M.H. instead always focused on her belief that legally J.A.H. was supposed to be hers, and she was unable to focus on what she herself was doing.

Moreover, Andrus related that when J.A.H. attempted to express his concerns in the family sessions, M.H. would "shut him down" and would respond that he was legally hers. This behavior continued up until the last session he had with M.H. and J.A.H., which occurred the week before trial.

Considering the foregoing, and the record as a whole, we find no error in the trial court's factual finding that the State had proved by clear and convincing evidence that M.H. had failed to substantially comply with the case plan. M.H. refused to attend parenting education classes and domestic violence counseling with Discovery. Moreover, while she was physically present for individual and family therapeutic sessions, as noted by the trial court, attendance alone does not equate to participating, nor is it substantial compliance with the case plan. Mere cooperation with agency authorities is insufficient. Rather, a showing of a significant, substantial indication of reformation is required, such as altering or modifying in a significant way the behavior preventing reunification. See State in the Interest of BJ and MJ, 95-1915 (La. App. 1st Cir. 4/4/96), 672 So. 2d 342, 347, writ denied, 96-1036 (La. 5/31/96), 674 So. 2d 264.

M.H.'s continued destructive behavior toward J.A.H. in the therapeutic sessions and her refusal or inability to address in individual therapy her own behaviors, which have acted as barriers to reunification, clearly and convincingly establish a lack of substantial compliance with the case plans, as well as a lack of any reformation and an overwhelming inability on M.H.'s part to protect J.A.H. from further harm or to provide for his needs.

Having found no manifest error in the trial court's finding that M.H. failed to substantially comply with the case plans, we turn now to the third component of the grounds for termination of parental rights set forth in LSA-Ch.C. art. 1015(5), i.e., the lack of any reasonable expectation of significant improvement in M.H.'s condition or conduct in the near future.

The substantive elements that demonstrate a lack of a reasonable expectation of significant improvement in the near future are set forth in

LSA-Ch.C. art. 1036(D), which provides that this prong may be shown by one or more of the following:

> (1) Any physical or mental illness, mental deficiency, substance abuse or chemical dependency that renders the parent unable or incapable of exercising parental responsibilities without exposing the child to a substantial risk of serious harm, based upon expert opinion or based upon an established pattern of behavior.
>
> (2) A pattern of repeated incarceration of the parent that has rendered the parent unable to care for the immediate and continuing physical or emotional needs of the child for extended periods of time.
>
> (3) Any other condition or conduct that reasonably indicates that the parent is unable or unwilling to provide an adequate permanent home for the child, based upon expert opinion or based upon an established pattern of behavior.

In the instant case, the expert testimony clearly establishes that M.H.'s mental health issues have rendered her unable or incapable of exercising parental responsibilities without exposing J.A.H. to a substantial risk of serious harm. Dr. Kehee noted that in the thousands of parental competency evaluations that he has performed over the years, most parents are on their very best behavior when they come into a psychologist's office. However, M.H. seemed to have absolutely no control over her ability to manage her emotions or to attempt to present her "best face to appear pleasant and sane and cooperati[ve]." According to Dr. Kehee, this was a sign of a serious and persistent mental illness. Additionally, Dr. Kehee testified that he did not think that there was "any chance" that J.A.H. and his mother could have any sort of a normal, decent relationship. Dr. Kehee further opined that the physical abuse of J.A.H. would continue if he were returned to M.H.'s home.

Similarly, Andrus testified that during the time that he had worked with M.H., he did not see any improvement in her relationship with J.A.H. When asked if he believed that improvement could occur between J.A.H.

and M.H., Andrus responded, "from a clinical p[er]spective, no." Andrus described M.H. as "emotionless" and opined that M.H. did not have J.A.H.'s best interests at heart, but, rather, that she always focused on her needs and on what she wanted.

Moreover, as noted by the trial court, M.H. had repeated outbursts throughout the trial of this matter, indicating that her behavioral issues still exist and revealing "serious concerns" for the safety of J.A.H. The trial court further noted that these types of outbursts contributed to M.H. being arrested on numerous occasions, which subsequently led to J.A.H. being placed in the State's custody. Indeed, M.H. estimated at trial that she had been arrested more than 100 times, and she stated that if J.A.H. were returned to her, she would need a respite plan if she is thereafter "arrested falsely." Accordingly, we likewise find no manifest error in the trial court's finding that there is no reasonable expectation of significant improvement in M.H.'s condition or conduct in the near future.

Thus, on the record before us, we cannot conclude that the trial court was clearly wrong or manifestly erroneous in finding that the State proved by clear and convincing evidence all three components of LSA-Ch.C. Art. 1015(5)--the lapse of at least one year since J.A.H. was removed from M.H.'s custody, the failure of M.H. to substantially comply with the case plan, and no reasonable expectation of significant improvement in M.H.'s condition or conduct in the near future. Accordingly, the remaining question before the trial court was whether termination of M.H.'s parental rights was in J.A.H.'s best interests.

II. The Best Interests of J.A.H.

After finding that at least one of the grounds set forth in LSA-Ch.C. art. 1015 has been established by clear and convincing evidence, the trial

court must then determine whether termination of parental rights is in the best interests of the child. See LSA-Ch.C. art. 1037(B). Children have a right to live in a safe, secure environment and to be reared by someone who is capable of caring for them. State in the Interest of J.M., J.P.M., and M.M., 837 So. 2d at 1256. Based on the record before us, it is clear that M.H. is incapable of meeting J.A.H.'s needs and that termination of her parental rights is in J.A.H.'s best interests.

As noted by the trial court below and as set forth above, J.A.H. was subjected to verbal, emotional, physical, and sexual abuse while in M.H.'s custody, and M.H. had not changed her behavior or attitude. On the other hand, in his current placement, J.A.H. has thrived. He progressed academically from making Cs and Ds to being on the honor roll and principal's lists. J.A.H. also joined the 4-H Club and began playing football. J.A.H. testified that he does not want to return to M.H. because he does not feel safe with her and because there is no one there to protect him from his brothers. Conversely, J.A.H. explained that in his current placement, he feels loved, cared for, and protected, and that now he really feels "hope."

Additionally, Dr. Kehee testified that J.A.H. is at the stage of development where he was learning to value himself as a person and learning how to see the world in a reasonable way. He opined that if J.A.H. were returned to M.H. at this point in his development, J.A.H. would never have the chance to validate who he is as a person or to create a solid foundation for his personality.

The trial court also noted that Andrus testified that J.A.H. had made it clear that if he were returned to M.H.'s home, he would either run away or kill himself. Andrus was of the opinion that returning J.A.H. to M.H. would

be detrimental to him, and, thus, he recommended that J.A.H. stay in the home where he had been placed.

Considering the foregoing and the entire record, we likewise find no manifest error in the trial court's finding that termination of M.H.'s parental rights is in J.A.H.'s best interests. Accordingly, we find no merit to M.H.'s assignments of error.

CONCLUSION

Considering the above and foregoing, the trial court's March 30, 2011 judgment, erroneously dated March 30, 2010, terminating the parental rights of M.H. and freeing J.A.H. for adoption, is hereby affirmed. Costs of this appeal are assessed against M.H.

AFFIRMED.