

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2007 CJ 0338

STATE OF LOUISIANA IN THE INTEREST OF L.T. AND K.T.

JUDGMENT RENDERED: JUNE 8, 2007

ON APPEAL FROM THE
CITY COURT OF BOGALUSA
DOCKET NUMBER J2005-076
PARISH OF WASHINGTON, STATE OF LOUISIANA

HONORABLE ROBERT J. BLACK, JUDGE

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BEFORE: CARTER, C.J., WHIPPLE AND MCDONALD, JJ.

Handwritten signatures and initials in the left margin, including what appears to be 'JMM', 'JJP', and 'JRW'.

MCDONALD, J.

J.L.T., the father herein, and P.T., the mother herein, are a married couple appealing a trial court judgment terminating their parental rights to their two daughters, seven-year-old L.T. and three-year-old K.T.

P.T. has two older daughters. P.T. lost custody of her oldest daughter, C.¹, in 1991, due to neglect. In January of 2005, the Office of Community Services (OCS) received a report that the second oldest of P.T.'s daughters, twelve-year-old H.M.,² told a teacher that J.L.T. (her stepfather) had sexually molested her, and that her mother threatened to kill her if she told anyone and caused the younger girls to be taken away. J.L.T. and P.T. were thereafter arrested in March of 2005. J.L.T. was charged with two counts of sexual molestation and P.T. was charged as a principal to the crime and with obstruction of justice.

An investigation of J.L.T. and P.T.'s home by OCS on March 9, 2005, found that the home was in deplorable condition, that the children were not being bathed, that the children were at high risk if harm due to the parents' incarceration, and that the conditions in the home had deteriorated over a period of months. Based on the results of this investigation, an instanter order was filed on March 10, 2005 to take L.T., age four at that time, and K.T., age one at that time, into State custody as children in need of care.

On March 14, 2005, the court signed an order for continued custody with OCS, finding that the children were still in need of care. An adjudication and dispositional hearing was held on April 12, 2005, after which the court found the following: that the children were still in need of care and that the Department of Social Services (DSS), State of Louisiana,

¹ No last name for C. is found in the record.

² Her age at the time of the incident.

had provided numerous services to the family since 1991, including but not limited to counseling on adequate housekeeping and appropriate methods of discipline and parenting, transportation and family services. The court ordered that the DSS case plan dated April 5, 2005 be made part of the judgment and set a review hearing for September of 2005. The case plan goal at that time was, and continued to be, reunification with the parents. J.L.T. and P.T. were provided with transportation, psychological and psychiatric evaluation, individual and family therapy, respite services, visitation, home visits and monthly contact, among other resources provided by the State.

Thereafter, in March of 2006, in its twelve-month review letter, the DSS stated that the case plan goal was changed to the children being released for adoption due to J.L.T. and P.T.'s inadequate progress toward alleviating or mitigating the causes necessitating L.T. and K.T.'s placement in foster care. Accordingly, on July 5, 2006, the State filed a petition for termination of J.L.T. and P.T.'s parental rights and certification of L.T. and K.T. for adoption under La. Ch.C. arts. 1015(3) 1015(4) and/or 1015(5).³ A hearing was held on October 10, 2006.

³ Louisiana Children's Code article 1015 provides in pertinent part:

The grounds for termination of parental rights are:

.....

3) Misconduct of the parent toward this child or any other child of the parent or any other child in his household which constitutes extreme abuse, cruel and inhuman treatment, or grossly negligent behavior below a reasonable standard of human decency, including but not limited to the conviction, commission, aiding or abetting, attempting, conspiring, or soliciting to commit any of the following:

.....

(i) Abuse or neglect which is chronic, life threatening, or results in gravely disabling, physical or psychological injury or disfigurement.

.....

(l) Sexual abuse, which shall include, but is not limited to acts which are prohibited by R.S. 14: 43.1, 43.2, 80, 81, 81.1, 81.2, 89 and 89.1.

(4) Abandonment of the child by placing him in the physical custody of a nonparent, or the department, or by otherwise leaving him under

Psychological evaluations of J.L.T. and P.T. showed that both were mildly mentally retarded and that J.L.T. could neither read nor write. Clinical psychologist Dr. Rafael F. Salcedo found that J.L.T. had significant problems with being able to develop insight into the reasons for OCS involvement with the family, much less addressing those problems in therapy. Dr. Salcedo found that P.T. was psychologically unable or unwilling to protect her daughter from further sexual abuse, and he could not recommend reunification with her daughter unless P.T. developed some insight into the abuse.

The testimony of Bobette Laurendine, a licensed clinical social worker in private practice who worked with both the parents and the children starting in April 2005, and the testimony of Karen Boone, the case manager for L.T. and K.T. at OCS, established that J.L.T. and P.T. failed to substantially follow the case plan, as follows: J.L.T. and P.T. were in denial of their daughter L.T's display of inappropriate sexual knowledge, which put the children at great risk; they had been living in an unheated, non-air-

circumstances demonstrating an intention to permanently avoid parental responsibility by any of the following:

.....

(b) As of the time the petition is filed, the parent has failed to provide significant contributions to the child's care and support for any period of six consecutive months.

.....

(5) Unless sooner permitted by the court, at least one year has elapsed since a child was removed from the 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.

conditioned garage with no bathroom; they failed to maintain contact with their attorney; they failed to maintain contact with DSS, they failed to follow up with mental health services for treatment; they failed to pay child support in accord with the plan; and they failed to gain insight into their children's inappropriate sexual information.

On November 13, 2006, the trial court signed a judgment finding that J.L.T. and P.T. had failed to pay child support for six consecutive months and failed to substantially follow the case plan and that it was in the best interest of L.T. and K.T. to terminate the parental rights of J.L.T. and P.T. The judgment terminated the parental rights of J. L. T. and P.T. and certified L.T. and K.T. for adoption. J.L.T. and P.T. have each appealed that judgment.

In her assignment of errors, P.T. asserts that the trial court erred in finding that she failed or refused to comply with a court-ordered case plan for permanency; the trial court erred in finding that PT refused or failed to provide support for her children without just cause for a period of at least six months; and the trial court erred in finding that the termination of parental rights of P.T. and that certification for adoption was in the children's best interest.

In his assignment of errors, J.L.T. asserts that the trial court manifestly erred in finding that he failed to make significant contributions to the children's care and support for six consecutive months, from March 10, 2005 to February 1, 2006, despite the absence of a support order in the case plan; and that the trial court manifestly erred in finding that he had made no substantial compliance with the OCS case plan and that there existed no expectation of significant improvement in the appellant's condition or

conduct in the near future considering the children's ages and their need for a stable and permanent home.

Eight statutory grounds for the involuntary termination of parental rights are set forth in La. Ch.C. art. 1015. Only one ground need be established; however, the trial court must also find that it is in the child's best interest. Given the draconian nature of an involuntary termination proceeding, OCS is required to prove the statutory ground on which it relies by clear and convincing evidence. A trial court's findings on factually-intense termination issues are governed by the manifest error standard of review. **In The Interest of D.M.**, 2005-2046 (La. App. 1 Cir. 2/10/06), 928 So.2d 624, 627.

While J.L.T. is correct that there was no support order against him in the April 5, 2005 case plan, only one ground need be established for involuntary termination of parental rights. Here, the trial court clearly found that both J.L.T. and P.T. failed to substantially comply with the case plan, that there existed no expectation of significant improvement in their behavior and conduct in the near future, and that considering L.T. and K.T.'s ages and their need for a safe, stable and permanent family home, it was in the children's best interest to have the parental rights terminated.

After a thorough review of the record, we find no error by the trial court and affirm the trial court's judgment in accordance with Uniform Rules - Courts of Appeal, Rule 2-16.1.B. Appellants are each cast with one-half of the costs.

AFFIRMED.