



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

APRIL TERM, 2026

In re J.W., Juvenile
(J.J., Mother*)

} APPEALED FROM:
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} Superior Court, Chittenden Unit,
}
} Family Division
}
} CASE NO. 22-JV-01928
} Trial Judge: Laura C. Rowntree

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

Mother appeals the termination of her parental rights to nine-year-old son J.W. We affirm.

J.W. was born in July 2016. In December 2022, the State filed a petition alleging that J.W. was a child in need of care or supervision (CHINS) due to mother's substance abuse and J.W.'s chronic absences from school. J.W. was initially placed in parents' custody under a conditional custody order (CCO).

In April 2023, the court found that the merits of the CHINS petition were established. At the July 2023 disposition hearing, the court adopted the case plan filed by the Department for Children and Families (DCF), which called for the existing CCO to continue for six months. The case plan expected mother to maintain consistent contact with DCF, complete a substance-use assessment and follow treatment recommendations, submit to random urinalysis requests, engage in treatment for ADHD, sign releases for DCF, maintain stable housing, demonstrate an ability to meet J.W.'s basic needs, and ensure that J.W. attended school regularly.

In December 2023, the State moved to amend the CCO to remove mother as joint custodian due to her failure to address her substance use or maintain contact with DCF or counsel. Mother did not object, and the court granted the motion. A month later, the State moved to vacate the CCO entirely on the grounds that father had violated conditions requiring him to meet with J.W.'s school clinician and ensure that J.W. attended school, and had allowed mother to transport J.W. to school unsupervised despite evidence that she was continuing to use unprescribed opiates and other substances. Following an emergency hearing, the court granted the motion and issued a temporary care order transferring custody of J.W. to DCF.

DCF filed an amended case plan in July 2024 calling for reunification with either parent within six months. The plan contained many of the same action steps for mother as the previous plan but further required mother to engage with a DCF domestic-violence specialist, stay informed about J.W.'s educational needs, and attend at least ninety percent of her scheduled Family Time visits with J.W. In September 2024, the court adopted the plan and issued an amended disposition order continuing DCF custody.

DCF moved to terminate both parents' rights to J.W. in December 2024. The court held a hearing over two days in April and July 2025, after which it issued a written decision containing the following findings. After J.W. entered DCF custody in January 2024, mother did not attend meetings or visits as requested by DCF and did not provide information regarding her substance-use treatment to DCF. Mother had tested positive for opiates, cocaine, and methamphetamines in two urinalyses in March and April 2024. In August 2024, DCF moved to suspend parent-child contact because both parents were chronically tardy to visits or missed them altogether. The court declined to suspend visitation but required DCF to ensure that J.W. was brought to visits only when parents had arrived.

The court found that mother had struggled with addiction since 2015. Mother admitted that her substance use had negatively impacted her parenting. She also reported that she struggled to care for J.W. due to her ADHD. She told DCF that she had not participated in residential substance-use treatment because she feared experiencing withdrawal, forgot to complete intake phone calls, and was anxious about attending treatment. She testified that she was not currently able to resume parenting J.W. due to her lack of housing and transportation. Mother had been unhoused since October 2024, when she and father were evicted, and had been staying with various family members. She was unemployed. At the time of the July 2025 hearing, she had not seen J.W. since Christmas of 2024.

The court found that mother had stagnated in her progress toward reunification because she had not engaged in any of the services required by the case plan, including mental-health counseling, substance-use treatment, or parenting classes. She did not have stable housing and had not had contact with J.W. for seven months.

The court then assessed J.W.'s best interests in accordance with the factors set forth in 33 V.S.A. § 5114(a). It found that mother and J.W. loved each other but that J.W.'s bond to mother had weakened due to lack of contact and she had not provided him the emotional support and affection that he deserved. J.W.'s foster parents ensured that J.W.'s medical, dental, and educational needs were met, and J.W. had learned new coping strategies and how to identify his needs in their care. The court found that mother would not be able to resume parenting J.W. within a reasonable time because she had failed to make any progress in addressing the reasons J.W. entered custody and had not maintained contact with him. It therefore concluded that termination of mother's parental rights was in J.W.'s best interests.* Mother appealed.

When considering a petition to terminate parental rights after initial disposition, the family court must first determine whether there has been a change in circumstances sufficient to justify modification of the original disposition order. In re B.W., 162 Vt. 287, 291 (1994). "A change in circumstances is most often found when the parent's ability to care properly for the child has either stagnated or deteriorated over the passage of time." In re H.A., 153 Vt. 504, 515

* The court also granted the petition to terminate father's parental rights, but he did not appeal.

(1990). If it finds a change in circumstances, the court must then consider whether termination is in the child’s best interests in accordance with the factors set forth in 33 V.S.A. § 5114(a). “The most important factor for the court to consider is the likelihood that the parent will be able to resume parental duties within a reasonable time.” In re J.B., 167 Vt. 637, 639 (1998). “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.” In re N.L., 2019 VT 10, ¶ 9, 209 Vt. 450.

Mother argues that the State failed to establish by clear and convincing evidence that termination of her parental rights was in J.W.’s best interests. This argument lacks merit. The record supports the family court’s findings that despite having over two years to address her substance-abuse and mental-health issues and demonstrate an ability to meet J.W.’s basic needs, including his emotional needs, mother made no progress in these areas. Father testified that mother continued to actively use heroin and was not in treatment. Mother’s failure to maintain contact with J.W. over the preceding months had weakened her bond with him and she did not play a constructive role in his life. Mother’s lack of progress and extended absence from J.W.’s life in turn meant that she was unable to resume parenting him within a reasonable time. Mother herself acknowledged that she was not presently able to parent J.W. due to her living circumstances, supporting the court’s analysis. Because the court’s findings are not clearly erroneous and support its conclusions, we see no reason to disturb its decision.

Mother contends that J.W. was never actually harmed in parents’ care, that he was unfairly removed from father’s custody for one instance of tardiness, and that this caused parents to emotionally unravel and led to termination. Mother did not appeal the initial or amended disposition orders and is therefore barred from collaterally attacking those decisions now. See In re K.G., 2023 VT 51, ¶ 42, 218 Vt. 419 (holding that parents could not challenge sufficiency of CHINS merits determination in appeal from subsequent termination because they did not appeal initial disposition order). To the extent mother is arguing that her failure to make progress was caused by DCF, her argument is unpersuasive. Mother’s failure to seriously engage in substance abuse treatment and other services, lack of cooperation with DCF, and failure to attend visits with J.W. were matters within her control. See In re S.R., 157 Vt. 417, 421-22 (1991) (rejecting argument that stagnation caused by factors beyond parents’ control where parents were offered services and did not make progress). We therefore see no error.

Affirmed.

BY THE COURT:

Paul L. Reiber, Chief Justice

Harold E. Eaton, Jr., Associate Justice

Michael P. Drescher, Associate Justice