

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2003-0610, In re Juvenile 2003-0610-A; In re Juvenile 2003-0610-B; In re Juvenile 2003-0610-C, the court on November 16, 2004, issued the following order:

The appellant, the mother of Juveniles 2003-0610-A, 2003-0610-B, and 2003-0610-C, appeals an order of the probate court terminating her parental rights. She contends that the probate court: (1) erred in calculating the time within which she could correct the conditions which led to the findings of neglect; (2) erred in finding that the State had proved beyond a reasonable doubt that it had made reasonable efforts toward reunification within the requisite time period; (3) was required to make separate findings against each of the parents of the juveniles; and (4) erred in finding that it was in the best interests of the twins to be adopted. We affirm.

“Before a court may order the termination of a parent’s rights, the petitioning party must prove a statutory ground for termination beyond a reasonable doubt.” In re Antonio W., 147 N.H. 408, 412 (2002). RSA 170-C:5 (2002) provides that a petition for termination of the parent-child relationship may be granted when the court finds that “[t]he parents, subsequent to a finding of child neglect or abuse under RSA 169-C, have failed to correct the conditions leading to such a finding within 12 months of the finding despite reasonable efforts under the direction of the district court to rectify the conditions.”

The mother concedes that she entered into a consent agreement in May 2000 in which she admitted that she had neglected the three children who are the subject of this appeal. She argues, however, that RSA 169-C:24-a (2002) is applicable to this case and requires that the children be “in an out-of-home placement pursuant to a finding of child neglect . . . for 12 of the most recent 22 months.” RSA 169-C:24-a. As the final arbiter of the legislature’s intent, we decline to construe the statute so narrowly. See State v. Kidder, 150 N.H. 600, 602 (2004) (goal of statutory interpretation is to apply statutes in light of legislature’s intent in enacting them and policy sought to be advanced by entire statutory scheme).

RSA 169-C:24-a, a section of the Child Protection Act, requires that the State file a petition to terminate parental rights when a child has been in an out-of-home placement pursuant to a finding of neglect “under the responsibility of the State” for twelve of the most recent twenty-two months. In a separate chapter concerning the termination of parental rights, RSA 170-C:5 provides that the probate court may grant a petition if it finds that one of several conditions

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exists. Neither statute contains any indication that they must be read together. Moreover, one is discretionary and the other mandatory. That the State must file a petition in certain neglect cases if a child is in placement for twelve out of twenty-two months does not limit the trial court's authority to grant termination petitions to cases where the out-of-home placement is of such duration. In this case, the finding of neglect was entered in May 2000; the petitions for termination were filed in December 2002. We therefore conclude that the time standards of RSA 170-C:5, III were met.

The mother also argues that protocols developed by the judicial branch required that her children must have been in placement for twelve of the last twenty-two months before a permanency hearing could be held and therefore the termination petition was premature. We disagree. The protocols do not limit the statutory authority of the probate court. See In re Craig T., 147 N.H. 739, 744-45 (2002).

The mother next argues that because the probate court did not make a specific finding as to the period in which she failed to correct the conditions of neglect, the State failed to prove beyond a reasonable doubt that DCYF made reasonable efforts toward reunification. We will assume without deciding that this issue has been adequately briefed. Having already concluded that the twelve-month period within which the mother was required to correct the conditions of neglect began in May 2000, we find this argument unpersuasive.

The mother also argues that the trial court was required to make separate findings against each parent. The probate court order incorporated the report of the guardian ad litem (GAL) and granted the petitioner's thirty-two requests for findings of fact and rulings of law. The record before us does not contain the thirty-two requests for findings of fact and rulings of law. See Bean v. Red Oak Property Management, Inc., 151 N.H. ___, ___, 855 A.2d 564, 565 (2004) (burden on appealing party to provide adequate record for appellate review). Moreover, we have previously held that in the absence of specific findings, the trial court is presumed to have made all the findings necessary to support its decree. See In re Lisa H., 134 N.H. 188, 195 (1991). Finally, we note that the evidence presented included the efforts by DCYF to provide the mother with crisis-level intervention services with a home-based counselor, assistance with grocery shopping, getting to appointments, advice on dealing with the children's behaviors, and relationship counseling. Team meetings took place at least every other week between DCYF and service providers to coordinate family services.

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Finally, the mother argues that because the court found that there was a significant bond between the twins and an older brother who elected to remain with her, it was not in the twins' best interests to be adopted. We will assume without deciding that the mother has adequately briefed this issue. While we agree that the bond between siblings is a factor that may be considered in assessing the children's best interests, in this case, the probate court found that the mother's instability prevented her from correcting the conditions leading to the finding of abuse and neglect. The GAL reported that the mother had failed to comply with the consent order of May 2000 and the dispositional order of March 2002, in that she continued to consume alcohol and failed to fully engage in anger management or alcohol counseling. Because the trial court's finding that it was in the twins' best interests that their mother's parental rights be terminated is supported by the record, we find no error.

Affirmed.

BRODERICK, C.J., and NADEAU and DALIANIS, JJ., concurred.

**Eileen Fox,
Clerk**

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