

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CHRISTOPHER MOORE, <sup>1</sup>	§
	§
Respondent Below-	§ No. 442, 2013
Appellant,	§
	§
v.	§ Court Below—Family Court
	§ of the State of Delaware,
CHARLENE HALL,	§ in and for New Castle County
	§ File No. 11-03-05TN
Petitioner Below-	§ Petition No. 11-08387
Appellee.	§

Submitted: March 10, 2014  
Decided: March 20, 2014

Before **HOLLAND, BERGER** and **RIDGELY**, Justices

**ORDER**

This 20th day of March 2014, upon consideration of the appellant’s brief filed pursuant to Supreme Court Rule 26.1(c), his attorney’s motion to withdraw, and the appellee’s response and motion to affirm, it appears to the Court that:

(1) The Family Court terminated the parental rights of the appellant, Christopher Moore (“Father”), with respect to his eight-year-old daughter (“the Child”) by order dated August 1, 2013. This is Father’s appeal from the termination of his parental rights.

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<sup>1</sup> The Court previously assigned pseudonyms to the parties pursuant to Supreme Court Rule 7(d).

(2) Father's appointed counsel on appeal has filed an opening brief and a motion to withdraw pursuant to Supreme Court Rule 26.1(c). Counsel asserts that he has reviewed the record and has determined that no arguable claim for appeal exists. By letter, Father's counsel informed him of the provisions of Rule 26.1(c) and provided him with a copy of the motion to withdraw and accompanying brief. Father did not respond with any points for the Court's consideration on appeal. The appellee, Charlene Hall ("Mother"), has filed a response to counsel's Rule 26.1 brief and has moved to affirm the Family Court's judgment.

(3) In March 2011, Mother filed a petition ("TPR petition") seeking to terminate Father's parental rights on the grounds of abandonment and failure to plan. Father opposed Mother's petition. The Family Court appointed counsel to represent him. The Family Court initially entered an order terminating Father's parental rights on December 22, 2011, which this Court reversed on appeal.<sup>2</sup> After the matter was remanded for reconsideration, the Family Court appointed new counsel and held a retrial on July 8, 2013 and July 10, 2013. The Family Court heard testimony from Mother, Father, Mother's husband, Mother's father, Father's ex-girlfriend,

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<sup>2</sup> *Moore v. Hall*, 62 A.3d 1203 (Del. 2013).

and from a social worker who prepared reports for Mother regarding her petition.

(4) The testimony at the TPR hearing fairly established that Mother and Father had engaged in a tumultuous relationship between March 2003 and April 2006. The Child was born in August 2005. Father was not present for the Child's birth and disputed whether he was the biological father of the Child.<sup>3</sup> Father has had no relationship with the Child since June or July 2006. Mother has since remarried and her new husband treats the Child as his own daughter and wishes to adopt her. Father has been incarcerated since December 2006. His anticipated release date is in 2019. Father made no attempt to contact the Child until Mother filed her TPR petition. At the conclusion of the hearing, the Family Court found clear and convincing evidence that Father, without intent, had abandoned the Child<sup>4</sup> and that Father had failed to plan for the Child,<sup>5</sup> and that termination of Father's parental rights was in the Child's best interest.<sup>6</sup>

(5) On appellate review of a termination of parental rights, this Court is required to consider the facts and the law as well as the inferences

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<sup>3</sup> Father's parentage was later established by DNA testing.

<sup>4</sup> DEL. CODE ANN. tit. 13, § 1103(a)(2)(b) (2009).

<sup>5</sup> *Id.* § 1103(a)(5)(b).

<sup>6</sup> *Id.* § 1103(a).

and deductions made by the Family Court.<sup>7</sup> We review legal rulings *de novo*.<sup>8</sup> We conduct a limited review of the factual findings of the trial court to assure that they are sufficiently supported by the record and are not clearly wrong.<sup>9</sup> If the trial judge has correctly applied the law, our review is limited to abuse of discretion.<sup>10</sup>

(6) The statutory procedure for terminating parental rights requires two separate inquiries.<sup>11</sup> First, the court must determine whether the evidence presented meets one of the statutory grounds for termination.<sup>12</sup> Second, the court must determine whether termination of parental rights is in the best interest of the child.<sup>13</sup> Both of these requirements must be established by clear and convincing evidence.<sup>14</sup>

(7) We have carefully reviewed the parties' submissions as well as the record below, including the transcript of the TPR hearing. We conclude

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<sup>7</sup> *Scott v. DSCYF*, 2012 WL 605700 (Feb. 27, 2012) (citing *Wilson v. Div. of Fam. Services*, 988 A.2d 435, 439-40 (Del. 2010)).

<sup>8</sup> *Wilson v. Div. of Fam. Services*, 988 A.2d 435, 440 (Del. 2010).

<sup>9</sup> *Id.*

<sup>10</sup> *Powell v. DSCYF*, 963 A.2d 724, 731 (Del. 2008).

<sup>11</sup> *Shepherd v. Clemens*, 752 A.2d 533, 536-37 (Del. 2000).

<sup>12</sup> *Id.* at 537. *See also* DEL. CODE ANN. tit. 13, § 1103(a)(1-8) (listing the grounds for termination of parental rights).

<sup>13</sup> DEL. CODE ANN. tit. 13, § 722(a)(1-8) (listing factors to be considered when determining the best interest of the child).

<sup>14</sup> *Powell v. DSCYF*, 963 A.2d at 731.

that there is ample record evidence supporting the Family Court's termination of Father's parental rights based on unintentional abandonment and failure to plan and that such termination is clearly in the Child's best interest.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Family Court is AFFIRMED. The motion to withdraw is moot.

BY THE COURT:

/s/ Randy J. Holland  
Justice