IN THE SUPREME COURT OF THE STATE OF DELAWARE

MATTHEW J. JANUARY, SR.,	§	
	§	No. 686, 2013
Respondent Below-Appellant,	§	
	§	Court Below: Family Court of the State of Delaware, in and for Kent County
v.	§	
	§	
DIVISION OF FAMILY SERVICES,	§	File No. 12-08-2TK
	§	Petition No. 12-27059
Petitioner Below-Appellee.	§	
	§	

Submitted: April 16, 2014
Decided: April 28, 2014

Before **STRINE**, Chief Justice, **BERGER**, and **RIDGELY**, Justices.

O R D E R

This 28th day of April 2014, upon consideration of the briefs of the parties and the record in this case, it appears to the Court that:

(1) The appellant, Matthew J. January, Sr. (the "Father"), appeals from the Family Court's order of November 19, 2013 terminating his parental rights in four of his minor children (collectively, the "Children").[1] The Father argues that the Family Court's decision that the best interests of the Children weighed in favor of terminating the Father's parental rights was not supported by clear and convincing evidence. We find no merit to the Father's appeal.

[1] This Court has assigned pseudonyms to the parties under Supreme Court Rule 7(d).

(2) After considering the Father's arguments, we affirm on the basis of the Family Court's order of November 19, 2013. The Family Court's decision is thorough and well supported by the factual record, and its legal analysis of the best interest factors set out in 13 Del. C. § 722(a) logically supports the termination of the Father's parental rights.

(3) Because our decision is based on these grounds, we need not reach the issue of whether the Family Court properly found that the Father was not a "perpetrator of domestic violence" within the specific meaning of 13 *Del. C.* § 703A, despite his conviction for aggravated menacing for conduct that was directed at the other parent of his children.[2] That statutory definition would be relevant to creating a rebuttable presumption against awarding custody of a child in a custody proceeding,[3] but it does not have any apparent relevance to termination of parental rights proceedings. Nonetheless, the Family Court opined that the Father was not a perpetrator of domestic violence within the meaning of § 703A(b). We do not need to decide whether the Family Court had to make that determination or whether that determination was correct. If

[2] 13 *Del. C.* § 703A(b) (defining "perpetrator of domestic violence" as "any individual who has been convicted of committing any of the following criminal offenses in the State, or any comparable offense in another jurisdiction, against the child at issue in a custody or visitation proceeding, against the other parent of the child, or against any other adult or minor child living in the home: (1) Any felony level offense . . .").

[3] 13 *Del. C.* § 705A(a) (establishing "a rebuttable presumption that no perpetrator of domestic violence shall be awarded sole or joint custody of any child"); 13 *Del. C.* § 705A(b) (establishing "a rebuttable presumption that no child shall primarily reside with a perpetrator of domestic violence").

the Father was in fact a perpetrator of domestic violence within the statutory definition of § 703A(b), that simply would have provided additional support for the Family Court's determination under § 722(a)(7) that the Father's lengthy history of domestic violence weighed heavily in favor of the termination of his parental rights.[4]

NOW, THEREFORE, IT IS ORDERED that the judgment of the Family Court is AFFIRMED.

BY THE COURT:

/s/ Leo E. Strine, Jr.
Chief Justice

[4] The Family Court may conclude that an individual has committed acts of "domestic violence" even if the Court does not conclude that the individual is a "perpetrator of domestic violence." *See, e.g., Baker v. Long*, 981 A.2d 1152, 1157 (Del. 2009); *Kuhn v. Danes*, 821 A.2d 335, 338 (Del. Fam. Ct. 2001).