

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

In re the Termination of the
Parent-Child Relationship of
N.M. & L.M. (Minor Children)
and

B.M. (Mother) and I.H. (Father),
Appellants-Respondents,

v.

Indiana Department of Child
Services,
Appellee-Petitioner.

April 22, 2021

Court of Appeals Case No.
20A-JT-1926

Appeal from the Madison Circuit
Court

The Honorable G. George Pancol,
Judge

Trial Court Cause No.
48C02-1912-JT-282 and 48C02-
2002-JT-49

Mathias, Judge.

- [1] B.M. (“Mother”) and I.H. (“Father”) appeal the Madison Circuit Court’s order involuntarily terminating their parental rights to their children. Mother argues that certain findings of fact are not supported by clear and convincing evidence. And both parties argue that the trial court’s order terminating their parental rights is not supported by clear and convincing evidence.
- [2] We affirm.

Facts and Procedural History

- [3] Mother has two children at issue in these proceedings: L.M., born in February 2016, and N.M., born in September 2017. L.M.’s father consented to her adoption in June 2020. I.H. is N.M.’s father and was incarcerated when the child was born. Both Mother and Father struggle with substance abuse. Mother has not shown that she has the ability to meet her children’s specialized medical needs. Father committed criminal offenses and was incarcerated multiple times during these proceedings.

Facts Specific to Mother

- [4] DCS filed a petition alleging that L.M. was a child in need of services (“CHINS”) in March 2016, when L.M. was one month old. DCS alleged that L.M. tested positive for benzodiazepines, buprenorphine, and/or barbiturates at birth, that L.M. exhibited withdrawal symptoms, and that her failure to gain weight was a medical concern. DCS also alleged that Mother admitted she

ingested Xanax without a valid prescription during her pregnancy and failed to keep or submit L.M.'s feeding logs. DCS removed L.M. from Mother's care on March 28, 2016.

- [5] The trial court adjudicated L.M. a CHINS on May 4, 2016. The court held a dispositional hearing on June 14, after which Mother was ordered to participate in many services including services aimed at addressing her substance abuse issues. Mother initially complied with L.M.'s case plan and court-ordered services. Therefore, in September, L.M. began a temporary trial home visit with Mother.
- [6] In January 2017, L.M. was briefly removed from Mother's care. The trial court ordered her returned to Mother's care on a trial home visit on January 19, 2017. Over the next several months, Mother failed to comply with court-ordered services to address her substance abuse issues. She failed to attend Alcoholics Anonymous or Narcotics Anonymous, she was not consistent with drug screens, and she testified positive for substances that were not prescribed to her. She also missed nearly half of the medically-ordered First Steps therapy visits for L.M. And she refused to enroll L.M. in either a home-based or center-based Early Head Start program as recommended by L.M.'s pediatrician.
- [7] In August 2017, Mother, who was then pregnant with N.M., tested positive twice for Xanax. Mother failed to take her prescription medications. And her physician removed her from her drug treatment program.

- [8] L.M.'s pediatrician provided a daily feeding schedule for the child, which Mother failed to follow. On August 31, L.M. was hospitalized due to vomiting and weight loss. While in the hospital, L.M. gained a significant amount of weight from taking in fewer calories than Mother was allegedly providing for her. Mother also failed to complete the training needed to maintain L.M.'s feeding schedule, which including feeding L.M. through a GI tube. Mother's trial home visit with L.M. was terminated in September 2017 and the child was removed from Mother's care.
- [9] N.M. was born in September 2017 and was drug exposed at birth. He experienced withdrawal symptoms and was treated in the NICU for three months post-birth. N.M. suffers from motor skill delays and muscle tightness. N.M. was removed from Mother's care shortly after he was born, and he was adjudicated a CHINS as a result of Mother's neglect in December 2017.
- [10] Throughout the CHINS proceedings, Mother continued to abuse prescription drugs and began using methamphetamine. Mother was clearly impaired when she arrived for visitations with L.M. and N.M., Mother has not had visitation with the children since January 2018. And, in August 2018, DCS was ordered to stop offering visitation unless Mother completed a thirty-day treatment program. Mother continued to abuse substances and refused drug screens. She was not compliant with services, failed to maintain communication with the family case manager, failed to attend her children's medical appointments, and did not keep all appointments with service providers. Although Mother completed substance abuse and parenting assessments, she did not follow

through with the treatment recommendations. Mother only attended one individual counseling session. She was also unsuccessfully discharged from an in-patient substance abuse treatment program because she abused sleeping pills. Both children have special medical needs, and Mother has not completed the training necessary to care for them. As a result of Mother's inaction and non-compliance with court-ordered services, DCS filed a petition in December 2019 to terminate her parental rights to both children.

Facts Specific to Father

[11] When N.M. was born in September 2017, Father was incarcerated for possession of methamphetamine, possession of cocaine, and theft. Father admitted that N.M. was a CHINS in April 2018. After he was released from incarceration in 2018, Father engaged in services and began visitation with N.M. Father completed a substance abuse assessment in September 2018, but relapsed that same month. He completed a second assessment after he relapsed but provided false information while completing that assessment.

[12] Father relapsed again and tested positive for methamphetamine twice in December 2018 and once in January 2019. He continued to visit with N.M. and the visits were supervised because of Father's continued substance abuse issues. Father was engaged with N.M. during supervised visitation and their interaction was positive. Father progressed to unsupervised visitation with N.M., and he was allowed a trial home visit in September 2019. After a permanency hearing in October 2019, the trial court found that Father was compliant with services and had only tested positive for Buprenorphine, which

was prescribed. Due to Father's continued progress, he was allowed to continue the trial home visit with N.M.

[13] However, in November 2019, Father was arrested for armed robbery and possession of a controlled substance. Father told the arresting officer that he used marijuana and methamphetamine, and the officer observed that Father appeared to be under the influence of narcotics. As a result of his substance abuse and arrest, Father's trial home visit with N.M. was terminated. And in December 2019, DCS filed a petition to terminate his parental rights to N.M.

[14] On February 14, 2020, Father pleaded guilty to Level 6 felony assisting a criminal and Class A misdemeanor possession of a controlled substance. He was ordered to serve a 910-day sentence, with 730 days served on house arrest and 180 days suspended to probation. On June 5, 2020, Father was arrested for operating a vehicle while intoxicated, endangering a person, and leaving the scene of a crime.

Facts Relevant to Both Parents

[15] The trial court held a fact-finding hearing on DCS's petitions to terminate Mother's and Father's parental rights on August 4, 2020. The service providers testified that termination of Mother's parental rights to both children and Father's parental rights to N.M. was in the children's best interests. Tr. pp. 75, 104, 107. Both children have special needs, and their foster parents have been trained to meet those needs. Father admitted both that his addiction issues interfere with his ability to care for N.M. and that he did not have the ability to

be N.M.'s primary care giver. Father's criminal matters pertaining to his June 5, 2020 arrest for operating a vehicle while intoxicated remained pending.

[16] On September 22, 2020, the trial court issued an order terminating Mother's parental rights to L.M. On October 1, the trial court issued an order terminating Mother's and Father's parental rights to N.M.

[17] Both parents appeal the trial court's respective orders.

Standard of Review

[18] Indiana appellate courts have long had a highly deferential standard of review in cases involving the termination of parental rights. *In re D.B.*, 942 N.E.2d 867, 871 (Ind. Ct. App. 2011). We do not reweigh the evidence or judge witness credibility, and we consider only the evidence and reasonable inferences that support the court's judgment. *See, e.g., In re C.D.*, 141 N.E.3d 845, 852 (Ind. Ct. App. 2020), *trans. denied*. We will affirm a trial court's judgment terminating parental rights unless it is clearly erroneous. *Id.* A judgment is clearly erroneous if the court's factual findings do not support its legal conclusions, or if the legal conclusions do not support the ultimate decision. *See id.*

Discussion and Decision

[19] [Indiana Code section 31-35-2-4\(b\)\(2\)](#) provides that a petition to terminate parental rights must allege:

(B) that one (1) of the following is true:

(i) There is a reasonable probability that the conditions that resulted in the child's removal or the reasons for placement outside the home of the parents will not be remedied.

(ii) There is a reasonable probability that the continuation of the parent-child relationship poses a threat to the well-being of the child.

(iii) The child has, on two (2) separate occasions, been adjudicated a child in need of services;

(C) that termination is in the best interests of the child; and

(D) that there is a satisfactory plan for the care and treatment of the child.

[20] DCS must prove each element by clear and convincing evidence. [Ind. Code § 31-37-14-2](#); *In re G.Y.*, 904 N.E.2d 1257, 1260 (Ind. 2009). Because Indiana Code subsection [31-35-2-4\(b\)\(2\)\(B\)](#) is written in the disjunctive, the trial court is required to find that only one prong of subsection [4\(b\)\(2\)\(B\)](#) has been established by clear and convincing evidence. *In re A.K.*, 924 N.E.2d 212, 220 (Ind. Ct. App. 2010).

[21] Clear and convincing evidence need not establish that the continued custody of the parent is wholly inadequate for the child's very survival. *Bester v. Lake Cnty. Off. of Fam. & Child.*, 839 N.E.2d 143, 148 (Ind. 2005). It is instead sufficient to clearly and convincingly show that the child's emotional and physical development are put at risk by the parent's custody. *Id.* If the court finds the allegations in a petition are true, the court shall terminate the parent-child relationship. [I.C. § 31-35-2-8\(a\)](#).

[22] The purpose of terminating parental rights is not to punish parents but instead to protect the child. *In re S.P.H.*, 806 N.E.2d 874, 880 (Ind. Ct. App. 2004). Although parental rights have a constitutional dimension, the law allows for their termination when the parties are unable or unwilling to meet their responsibilities as parents. *Id.* Indeed, parental interests must be subordinated to the child's interests in determining the proper disposition of a petition to terminate parental rights. *G.Y.*, 904 N.E.2d at 1259.

Mother's Appeal

[23] First, we address Mother's claim that two of the trial court's findings in its order terminating her parental rights to N.M. are not supported by clear and convincing evidence.

[24] First, the trial court found that Mother admitted to using drugs during her pregnancy and throughout the proceedings. Appellant's App. p. 17. We agree with Mother that she did not admit she used drugs, even though her drug use during her pregnancy and throughout these proceedings was well documented.

[25] Mother also argues that the finding that she was required to complete a thirty-day treatment program before her visits with her children would be reinstated is not supported by evidence. *See id.* at 15-16. This finding is consistent with the trial court's August 8, 2018 order. But after a permanency hearing held on October 31, 2018 and Mother's removal from the thirty-day EOP program for misusing prescription drugs, the court ordered the thirty-day program requirement removed. Ex. Vol. p. 94. It is unclear why the court removed the

requirement. Nevertheless, clear and convincing evidence supports the trial court's findings that Mother failed to participate in visitation with her children after January 2018 and that she made little effort to have her visitation reinstated.

[26] Considering only the evidence favorable to the trial court's judgment, we turn our attention to Mother's argument that termination of her parental rights is not supported by clear and convincing evidence.

[27] In her brief, Mother challenges only two of the trial court's conclusions: (1) that there was a reasonable probability that the conditions resulting in the children's removal from her care, or the reasons for the children's continued placement outside her home, would not be remedied; and (2) that there is a reasonable probability that the continuation of the parent-child relationship poses a threat to the well-being of the children.¹ See I.C. § 31-35-2-4(B). Mother does not claim that the evidence was insufficient to prove any of the other factors enumerated in [Indiana Code section 31-35-2-4\(b\)](#), including that termination of her parental rights was in the children's best interests.

¹ Because Indiana Code subsection [31-35-2-4\(b\)\(2\)\(B\)](#) is written in the disjunctive, we do not address whether DCS proved that continuation of the parent-child relationship threatens children's well-being. *In re A.K.*, 924 N.E.2d at 220. Also, Mother claims that DCS failed to prove that termination of her parental rights was in children's best interests. But Mother does not support her claim with specific argument or citation to the record, and therefore, her claim is waived. See [Ind. Appellate Rule 46\(a\)\(8\)\(A\)](#).

[28] Mother does not advance any specific argument disputing the trial court's finding that continuing Mother's relationship with the children poses a threat to their well-being. Mother cites to authority, the record, and specifically challenges only the trial court's conclusion under subsection [31-35-2-4\(b\)\(2\)\(B\)\(i\)](#). And Indiana Code subsection [31-35-2-4\(b\)\(2\)\(B\)](#) is written in the disjunctive; therefore, DCS was only required to prove one of the three factors. For these reasons, we review only the trial court's conclusion that DCS proved that there was a reasonable probability that the conditions resulting in the children's removal from Mother's care, or the reasons for the children's continued placement outside her home, would not be remedied. *See* I.C. § [31-35-2-4\(b\)\(2\)\(B\)\(i\)](#).

[29] When considering whether DCS proved that there was a reasonable probability that the conditions resulting in the children's removal from Mother's care, or the reasons for the children's continued placement outside her home, would not be remedied, the trial court was required to determine Mother's fitness to care for the children at the time of the termination hearing while also taking into consideration evidence of changed circumstances. *See A.D.S. v. Ind. Dep't of Child Servs.*, [987 N.E.2d 1150, 1156–57 \(Ind. Ct. App. 2013\)](#), *trans. denied*. A parent's habitual patterns of conduct must also be evaluated to determine the probability of future neglect or deprivation of the child. *Matter of K.T.*, [137 N.E.3d 317, 326 \(Ind. Ct. App. 2019\)](#). Habitual conduct may include criminal history, drug and alcohol abuse, history of neglect, failure to provide support, and lack of adequate housing and employment. *A.D.S.*, [987 N.E.2d at 1157](#).

The services offered to the parent, and the parent's response to those services, is also evidence of whether conditions will be remedied. *Id.* A trial court's findings concerning the probability of future neglect "must be founded on factually-based occurrences as documented in the record—not simply speculative or possible future harms." *In re V.A.*, 51 N.E.3d 1140, 1146 (Ind. 2016). But DCS need not "provide evidence ruling out all possibilities of change; rather, it need establish only that there is a reasonable probability the parent's behavior will not change." *In re I.A.*, 903 N.E.2d 146, 154 (Ind. Ct. App. 2009).

[30] Contrary to Mother's claims, L.M. and N.M. were adjudicated CHINS and removed from Mother's care for reasons beyond Mother's inability to address her substance abuse issues. Mother used nonprescribed substances during her pregnancies with both children. As a result, the children were drug-addicted at birth and required substantial medical care. In her brief, Mother does not acknowledge the harm her substance abuse issues have caused her children since birth.

[31] Mother tested positive for methamphetamine on several dates between November 2017 and June 2019. She also tested positive for Xanax and Buprenorphine when she did not have a valid prescription for those substances and refused drug screens on multiple occasions. Mother's lack of effort to address her substance abuse issues is well documented in the record before us. And Mother's continued failure to address her substance abuse issues resulted in suspension of visitation with the children.

[32] Both children have special needs that Mother could not meet when the children were removed from her care. L.M. was hospitalized because she was not gaining weight despite Mother's claims concerning her caloric intake. While hospitalized, L.M. quickly gained weight even though her caloric intake was lower than what Mother allegedly provided. Mother failed to take L.M. to necessary medical appointments and did not obtain the training necessary to care for her children's special needs. Mother also failed to attend the children's medical appointments after they were removed from her care. Simply put, Mother has not established that she is capable of caring for her children's special needs.

[33] Further, for much of L.M.'s life and the entirety of N.M.'s life, Mother has not been the children's primary caregiver. She has not had visitation with the children since January 2018. Mother did not participate in the services required or take any significant steps toward resuming visitation with her children.

[34] For all of the reasons, the trial court's conclusion that there is a reasonable probability that the conditions resulting in the children's removal from Mother's care, or the reasons for the children's continued placement outside her home, would not be remedied is supported by clear and convincing evidence. We therefore affirm the trial court's orders terminating Mother's parental rights to L.M. and N.M.

Father's Appeal

[35] We initially observe that Father does not challenge any of the trial court's factual findings as being clearly erroneous. We therefore accept the trial court's findings as true and determine only whether these unchallenged findings are sufficient to support the judgment. *In re A.M.*, 121 N.E.3d 556, 562 (Ind. Ct. App. 2019), *trans. denied*; see also *T.B. v. Ind. Dep't of Child Servs.*, 971 N.E.2d 104, 110 (Ind. Ct. App. 2012) (holding that when the trial court's unchallenged findings support termination, there is no error), *trans. denied*.

[36] Father argues that the trial court's order terminating his parental rights to N.M. is not supported by clear and convincing evidence. Specifically, Father challenges the factors enumerated in [Indiana Code section 31-35-2-4\(b\)\(1\) and \(2\)](#).

A. N.M.'s Removal Under a Dispositional Decree

[37] First, Father argues that DCS failed to prove N.M. was removed from his care for "at least six (6) months under a dispositional decree." See I.C. § [31-35-2-4\(b\)\(1\)](#). "For purposes of the element of the involuntary termination statute requiring a child to have been 'removed from the parent for at least six (6) months under a dispositional decree' before termination may occur . . . such a dispositional decree is one that authorizes an out-of-home placement." See *A.P. v. Porter Cnty. Off. of Fam. & Child.*, 734 N.E.2d 1107, 1116 (Ind. Ct. App. 2000) (quoting *Tipton v. Marion Cnty. Dep't of Pub. Welfare*, 629 N.E.2d 1262, 1265–66 (Ind. Ct. App. 1994)), *trans. denied*. This is true even where the child's removal

occurs while the noncustodial parent is incarcerated. *In re D.D.*, 962 N.E.2d 70, 75 (Ind. Ct. App. 2011).

[38] The dispositional decree was issued in January 2018. The petition to terminate Father’s parental rights was filed approximately twenty-three months later in December 2019. N.M. was in Father’s care for one month during a temporary trial home visit between January 2018 and December 2019. Therefore, DCS proved that N.M. was removed from Father’s care for at least six months under a dispositional decree.

[39] Although Father does not raise it as a separate issue, Father also argues that his due process rights were violated because (1) the trial court issued the dispositional decree before N.M. was adjudicated a CHINS due to Father’s inability to care for him, and (2) the trial court failed to hold a dispositional hearing for Father. Father is correct that the trial court erred when it issued the dispositional decree for both parents in January 2018, before N.M. was adjudicated a CHINS in April 2018 due to Father’s inability to care for him due to his incarceration.² And the trial court erred by failing to hold a dispositional hearing for Father.

[40] Following a CHINS adjudication, “the trial court conducts a dispositional hearing to consider the alternatives for the child’s care, treatment, placement, or rehabilitation; the participation of the parent, guardian or custodian; and the

² N.M. was adjudicated a CHINS due to Mother’s neglect in December 2017.

financial responsibility for the services provided.” *In re K.D.*, 962 N.E.2d 1249, 1257 (Ind. 2012) (citing Ind. Code § 31-34-19-1). The court is then required to issue a dispositional order that establishes the plan of care, treatment, or rehabilitation necessary to address the child’s needs. *Id.*

[41] Father admits that he did not raise these arguments in the trial court. Because the trial court did not hold a dispositional hearing, Father could have filed a motion to dismiss the case as allowed by [Indiana Code section 31-34-19-1\(b\)](#). But he did not. For these reasons, Father has waived his claim by raising it for the first time on appeal. See *In re N.G.*, 51 N.E.3d 1167, 1173 (Ind. 2016).

[42] Waiver notwithstanding, we note that “parents facing termination proceedings are afforded due process protections.” *In re T.W.*, 135 N.E.3d 607, 612 (Ind. Ct. App. 2019), *trans. denied*. “The nature of the process due in any proceeding is governed by a balance of three factors: the private interests affected by the proceeding; the risk of error created by the State’s chosen procedure; and the countervailing governmental interest supporting use of the challenged procedure.” *Id.* at 613 (quotations omitted).

The private interest affected by the proceeding is substantial—a parent’s interest in the care, custody, and control of his or her child. And the State’s interest in protecting the welfare of a child is also substantial. Because the State and the parent have substantial interests affected by the proceeding, we focus on the risk of error created by DCS’s actions and the trial court’s actions.

K.M. v. Ind. Dep't of Child Serv., 997 N.E.2d 1114, 1120 (Ind. Ct. App. 2013) (citing *In re C.G.*, 954 N.E.2d 910, 917 (Ind. 2011)).

[43] Although procedural irregularities in a CHINS proceeding may be of such significance that they deprive a parent of procedural due process with respect to termination of his or her parental rights, not all procedural defects result in a due process violation. See *In re A.P.*, 734 N.E.2d 1107, 1117 (Ind. Ct. App. 2000), *trans. denied* (concluding that parents' due process rights were violated in a termination action where DCS made multiple procedural errors, such as failing to provide parents with copies of case plans and filing CHINS and termination petitions that did not meet statutory requirements); cf. *N.P. v. Ind. Dep't of Child Serv.*, 949 N.E.2d 395, 403 (Ind. Ct. App. 2011) (citing *J.I. v. Vanderburgh Cnty. Off. of Fam. & Child.*, 825 N.E.2d 798, 816 (Ind. Ct. App. 2005) (noting that one procedural deficiency alone may not result in a due process violation), *trans. denied*).

[44] In this case, Father was notified of and fully participated in the CHINS proceedings. Father specifically waived the CHINS fact-finding hearing. Father's App. pp. 8, 163. By waiving the CHINS fact-finding hearing, Father admitted that the coercive intervention of the court was necessary for the care and treatment of N.M. Father also appeared at periodic case-review and permanency hearings.

[45] DCS provided assistance and services to Father that he participated in with the goal of reunifying with N.M. Father does not argue that the programs and

services were unnecessary or that they did not relate to Father's inability to care for N.M. when the child was adjudicated a CHINS. And because Father fully participated in services when he was released from incarceration, Father was awarded unsupervised visitation with N.M. which progressed to a temporary trial home visit. The temporary trial home visit ended when Father relapsed and participated in an armed robbery.

- [46] Under these unique facts and circumstances, we conclude that the purpose of the dispositional hearing and order was met, and Father has not established that his due process rights were violated during the CHINS proceedings.

B. Reasons for N.M.'s Removal

- [47] Father also argues that DCS failed to prove either of the two factors enumerated in subsections [31-35-2-4\(b\)\(2\)\(i\)](#) or [\(ii\)](#). As we noted above, the statute is written in the disjunctive. Therefore, DCS was only required to prove one of the factors listed in that subsection.
- [48] The trial court concluded a reasonable probability existed that the conditions justifying N.M.'s removal from Father and continued placement outside his home will not be remedied. When N.M. was removed from Mother's care, DCS was unable to consider Father as an appropriate placement because he was incarcerated for theft, possession of methamphetamine, and possession of cocaine convictions.
- [49] After Father was released from jail, he was ordered to submit to drug screens due to his history of substance abuse. Father relapsed in December 2018 and

twice tested positive for methamphetamine. However, Father enrolled in a suboxone program through Clean Slate in March 2019 and was compliant with DCS services. Because Father fully participated in the services offered, he was awarded unsupervised visitation with N.M., which eventually progressed to a trial home visit in fall 2019.

[50] But in November, Father relapsed once again and was arrested for participating in an armed robbery. The arresting officer believed that Father was impaired. Father told the officer that he was using marijuana and methamphetamine. During the search incident to arrest, the officer found Xanax in Father's possession. Father did not have a prescription for Xanax.

[51] Father ultimately pleaded guilty to assisting a criminal and was ordered to serve 730 days of his sentence on house arrest. In June 2020, while he was still on house arrest, Father was arrested for operating a vehicle while intoxicated. The day before the termination fact-finding hearing, Father had a hearing for violating his house arrest as a result of the operating offense.

[52] We acknowledge that Father demonstrated brief periods of commitment to N.M. and sobriety during these proceedings, but Father continued to use illegal substances and engage in criminal activity. Therefore, he is unable to provide a safe and stable home for N.M. It was appropriate for the trial court to consider Father's habitual patterns of conduct to determine the probability of future neglect or deprivation of the child. See *Matter of K.T.*, 137 N.E.3d at 326.

[53] For all of these reasons, the trial court’s conclusion that a reasonable probability existed that the conditions justifying N.M.’s removal from Father and continued placement outside his home will not be remedied is supported by clear and convincing evidence.

C. N.M.’s Best Interests

[54] Finally, Father argues that DCS failed to prove that termination of his parental rights was in N.M.’s best interests. “Permanency is a central consideration in determining the best interests of a child.” *In re G.Y.*, 904 N.E.2d at 1265. To determine the best interests of children, the juvenile court looks to the totality of the evidence and must subordinate the interests of the parents to those of the child. *In re D.D.*, 804 N.E.2d 258, 267 (Ind. Ct. App. 2004), *trans. denied*. The juvenile court need not wait until a child is irreversibly harmed before terminating parental rights. *McBride v. Monroe Cnty. Off. of Fam. & Child.*, 798 N.E.2d 185, 203 (Ind. Ct. App. 2003). Recommendations of the family case manager (“FCM”) and the child’s court appointed special advocate (“CASA”), in addition to evidence that the conditions resulting in removal will not be remedied, are sufficient to show by clear and convincing evidence that termination is in the child’s best interest. *In re A.S.*, 17 N.E.3d 994, 1005 (Ind. Ct. App. 2014), *trans. denied*.

[55] Here, both the FCM and CASA testified that termination of Father’s parental rights was in N.M.’s best interests. Tr. pp. 75, 107. N.M. has begun to exhibit signs of anxiety due to the ongoing lack of permanency. Father still struggles with substance abuse and is unable to provide a safe and stable home for N.M.

On the date of the fact-finding hearing, Father's criminal matters remained pending. Father admitted that he is unable to currently care for N.M. and requested that the trial court consider awarding guardianship of the child to his mother. Tr. p. 51. Under the totality of these circumstances, the trial court's conclusion that termination of Father's parental rights is in N.M.'s best interests is supported by clear and convincing evidence.

Conclusion

[56] After considering the arguments raised by the parties in this consolidated appeal, we affirm the trial court's orders terminating Mother's parental rights to L.M. and Mother's and Father's parental rights to N.M.

[57] Affirmed.

Riley, J., and Crone, J., concur.