

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

In the Termination of the Parent-
Child Relationship of:

R'n.Y., R'c.Y., A.Y. and K.Y.
(Minor Children),

and

C.L. *(Mother)* and J.Y. *(Father),*

Appellants-Respondents,

v.

Indiana Department of Child
Services,

Appellee-Petitioner.

November 14, 2022

Court of Appeals Case No.
22A-JT-836

Appeal from the Lawrence Circuit
Court

The Honorable Nathan G. Nikirk,
Judge

The Honorable Anah Hewetson
Gouty, Referee

Trial Court Cause Nos.

47C01-2111-JT-426

47C01-2111-JT-427

47C01-2111-JT-428

47C01-2111-JT-429

Robb, Judge.

Case Summary and Issue

- [1] C.L. (“Mother”) and J.Y. (“Father”) (collectively, “Parents”) are the biological parents of two sets of twins – R’c.Y. and R’n.Y., born on January 1, 2020, and A.Y. and K.Y., born on December 21, 2020 (collectively, “Children”). In 2020, R’c.Y. and R’n.Y. were removed from Parents’ care by the Indiana Department of Child Services (“DCS”) and found to be children in need of services (“CHINS”), and the following year, A.Y. and K.Y. were removed from Parents’ care and also found to be CHINS. A petition for the involuntary termination of Mother’s and Father’s parental rights to Children was filed, and, after a hearing, the juvenile court terminated their parental rights. Parents now individually appeal, and we address the following issue: whether the juvenile court’s order terminating Parents’ parental rights to Children was clearly erroneous. Concluding it was not, we affirm the judgment of the juvenile court.

Facts and Procedural History

- [2] Mother and Father have six biological children together. The two sets of twins are the only children subject to this appeal.¹

¹ Mother and Father have two older children together, seven-year-old J.Y. and nine-year-old C.Y. In July 2018, due to allegations of Parents’ homelessness, drug use, and refusal to submit to drug screens, Father’s mother and step-father (“Paternal Grandparents”) were appointed emergency temporary guardians over J.Y.

CHINS Proceedings – Twins R’c.Y. and R’n.Y.

[3] When R’c.Y. and R’n.Y. were born in January 2020, the twins and Mother tested positive for methamphetamine and amphetamine. Before the twins were released from the hospital, DCS created a safety plan, under which Father was to be a sober caregiver for the twins and not allow any unsupervised contact between Mother and the twins. However, the safety plan failed when, on January 9, 2020, during an unannounced home visit, DCS observed that Father was asleep on the couch, Mother was practicing unsafe sleep practices with the twins, and R’n.Y. had thrown up on herself and had not been cleaned up. The twins were removed from Parents’ care and placed with Father’s mother, and on January 10, 2020, a CHINS petition was filed. In the petition, DCS alleged that the twins were born drug exposed, Mother had tested positive for the same substances, and the twins’ safety and wellbeing could not be ensured in Parents’ care without court intervention.

[4] On August 17, 2020, the twins were adjudicated CHINS, and on September 14, the juvenile court entered its dispositional order. The juvenile court ordered Parents to maintain contact with the family case manager (“FCM”) assigned to the case and allow the FCM to monitor compliance with the CHINS matter;

and C.Y. In January 2022, the adoption court granted Paternal Grandparents’ petition to adopt J.Y. and C.Y., concluding that Mother and Father were unfit to parent the children. Mother has another child from a previous relationship, B.K., who she has not seen since Christmas 2015, and who lives in Tennessee with her biological father. None of these three children is the subject of the termination of parental rights action at issue in this appeal.

allow the FCM and other service providers to make unannounced visits to the twins' home; enroll in any programs or services recommended by the FCM or any other service provider and participate in all recommended services and assessments; keep all appointments with any service provider; sign any releases necessary for the FCM to monitor compliance with the juvenile court's order; secure and maintain suitable and safe housing and a legal and stable source of income; complete a substance abuse assessment and follow all treatment recommendations; submit to random drug screens; abstain from consuming illegal substances; complete a parenting assessment and comply with all resulting recommendations; and attend all scheduled visitations. In addition, Father was ordered to complete a mental health evaluation and complete all treatment recommendations. Parents were offered services that included a parenting assessment, a mental health evaluation, a substance abuse evaluation and referral for treatment, home-based casework, individual therapy, random drug screens, fatherhood engagement, and supervised visitation with the twins.

[5] The May 17, 2021, progress report for the CHINS case showed some success on Mother's part. She was participating in supervised visits with the twins and in case planning, she had completed an inpatient substance abuse program and was submitting to drug screens, and she was communicating with the FCM. But she was not fully compliant with the dispositional order because she was not participating in the services that were offered. Father, like Mother, participated in supervised visits with the twins but did not participate in the services that were offered. At the conclusion of the periodic review hearing

held on August 16, 2021, the permanency plan for the twins was changed from reunification to adoption.

CHINS Proceedings – Twins A.Y. and K.Y.

- [6] In December 2020, twins A.Y. and K.Y. were born prematurely and both the twins and Mother tested positive for methamphetamine. The twins were removed from Parents' care and placed in relative care. On January 4, 2021, DCS filed a CHINS petition, based on the following allegations: Parents were not participating in the services offered in the CHINS case for twins R'c.Y. and R'n.Y. and were not submitting to drug screens; twins A.Y. and K.Y. were born drug exposed and Mother had tested positive for the same substance; a DCS case manager attempted to meet with Mother at the hospital after the twins' birth, but Mother could not be awakened; DCS case managers made multiple, unsuccessful attempts to meet with Mother and Father; and the twins' safety in Parents' care could not be ensured due to Parents' substance abuse.
- [7] The juvenile court adjudicated the twins CHINS on March 26, 2021, and issued a dispositional order on April 20. The dispositional order directed Parents to adhere to the same requirements set forth in the dispositional order for the older twins' case – adding that Parents must obtain a high school diploma or GED – and offered Parents the same services.
- [8] The August 16, 2021, progress report for this CHINS case showed a lack of improvement on Parents' part. Other than participating in supervised visits with the twins, Parents were not compliant with the dispositional order.

Following a permanency hearing held on November 29, 2021, the permanency plan for twins A.Y. and K.Y. was changed from reunification to adoption.

Termination of Parental Rights to Children

[9] From the beginning, Parents' participation in the services that were offered was inconsistent. And, Children have remained outside of Parents' care since their removal. In February 2020, FCM Lorinda Walker began working with Parents. She discussed with Parents the services that would be provided to them, and, while Mother was open to the services and Father agreed to participate in the services, Father stated that he "did not see the purpose of [the services]." Exhibit Binder, Volume 1 at 189. During the three months that FCM Walker worked with Parents, she had difficulty communicating with Parents, Mother did not attend any individual therapy or a substance abuse evaluation, and Parents only submitted to drug screens "a couple of times[.]" *Id.* FCM Walker conducted a child and family team meeting in May 2020, during which Father requested therapy. DCS referred Father to therapy, but Father did not attend.

[10] Gretchen Oliver, a home-based case worker, supervised Parents' visits with R'c.Y. and R'n.Y., beginning in March 2021. Two visits were scheduled each week. She observed that Parents were always prepared for the visits, Parents interacted well with the twins, and the twins were happy to see Parents. But Parents also spent an extended period of time in the bathroom during the visits – ten to fifteen minutes at a time – even after Oliver voiced concern. And the supervised visits could not progress to intermittently supervised because Parents

were inconsistent with attending the visits. Parents would, as required, call or send a text message to Oliver twenty-four hours ahead of the visit to confirm they would attend but would then “quickly cancel the visit[.]” Transcript of Evidence, Volume 2 at 113. The only month Parents attended all of the scheduled visits was March 2021.

[11] Tina Burress, the home-based case worker who supervised Parents’ twice-weekly visits with A.Y. and K.Y. beginning in May 2021, observed that Parents’ engagement with the twins during the visits was “pretty positive.” *Id.* at 134. But Parents did not consistently attend the visits. Mother completed thirty-one out of eighty scheduled visits, and Father completed thirty. Burress was not concerned about Parents’ interactions with the twins during the visits but was concerned about Parents’ inconsistent attendance and the effect the inconsistency had on the twins. Burress also observed that there had been a “decline” in the quality of the visits with Father and that Father was spending fifteen to twenty minutes in the bathroom. *Id.* at 136. Parents initially “[did] a great job” with calling Burress a day ahead of the scheduled meet time to confirm their attendance at the visits. *Id.* at 141. However, Burress later had to add a requirement that Parents confirm their attendance one hour ahead of each visit because Parents began canceling on the day of the visit. Burress observed that not one month passed where Parents attended all of the scheduled visits. During one visit, Father remained in his vehicle and did not participate.

[12] Tori Simpson, a home-based caseworker, was assigned to Mother in May 2021, and tasked with assisting Mother with transportation, housing, and

employment goals, and with completing a nurturing parent program. However, Mother did not show up for her first appointment with Simpson, and of the thirteen appointments that were scheduled over the next three months, Mother only attended two. Mother made no progress toward her goals because of her lack of attendance. Mother did complete the initial assessment for the nurturing parent program but made no additional progress toward completing the program. Mother told Simpson that she was having difficulties obtaining transportation to the appointments, but she refused Simpson's offer to meet Mother at Mother's home, and she did not ask Simpson to transport her to the appointments – a service Simpson could have provided if Mother had requested it. At the appointment Mother attended on June 16, 2021, Mother told Simpson that she had completed a substance abuse treatment program at Transitions Recovery treatment facility and had been drug-free for three months.

[13] In August 2021, therapist Rebecca Westgate was assigned to work with Parents on a family and functional parenting assessment, but she was unable to locate Parents without the aid of other service providers. Westgate noted that the assessment process “started off really bad in the first place” because she would drive a long distance to the appointments, only to have Parents either no-show, cancel the appointment within five minutes of the start time, or arrive and tell Westgate that they could not stay at the appointment because they had to “change a tire[.]” *Id.* at 170.

[14] Westgate eventually met with Father on September 14, at a supervised visit he and Mother attended for one of the sets of twins. And Westgate was able to interview Father twice more before completing her report on November 1. However, Westgate “[did not] like the way [her report] came out[,]” and believed it to be incomplete because Father was not cooperative during the assessment process. *Id.* at 171. He refused to complete the substance abuse subtle screening inventory part of the assessment because he thought it contained “trick questions.” *Id.* at 172. During one meeting, Father refused to participate and remained in his vehicle.

[15] Regarding Mother’s family and functional parenting assessment, Westgate first made contact with Mother on September 14, at the supervised visit Parents attended. Westgate arranged to meet with Mother the following week at Mother’s home to perform an in-home safety check. But Westgate was unable to perform the safety check because Mother was not at home when Westgate arrived. And, although Westgate was able to interview Mother for the parenting and family functional assessment, and completed her report on November 15, Westgate was not pleased with the report because “it had a lot of holes[,]” and “things were missing that [she] would have rather . . . included.” *Id.* at 168.

[16] Home-based caseworker Aundie Tinkle was assigned to work with both Mother and Father from September to December 2021, and assist them with setting and achieving goals related to employment, housing, substance abuse, and mental health. However, Parents ultimately made no progress toward setting goals,

and Tinkle was unable to provide helpful resources to Parents. It took Tinkle more than one month to locate Mother. And Tinkle was not able to arrange a child and family team meeting with Parents until November 9, which Parents attended by phone. Parents largely failed to show up for the following weekly meetings. And Tinkle was only able to meet with Parents twice more – once in November and once in December for thirty minutes each time. Father refused to sign the consent-to-services forms that Tinkle presented to him because he was convinced the information would be shared with the probation department.² His failure to sign the forms prevented Tinkle from being able to work with him.

[17] DCS filed a petition for involuntary termination of Parents’ parental rights on November 30, 2021, and the termination hearing was held on February 18, 2022. At the termination hearing, Father testified that he has not maintained stable housing, he currently is residing with friends in “several places[,]” and he is unemployed. Tr., Vol. 2 at 23. He does not have a bank account and uses food stamps to purchase food. Father told the juvenile court that he stopped paying child support for his older children in September 2021, and he admitted to gambling at local casinos. Father told the court that he submitted to some random drug screens early in the CHINS cases, but he admitted that he did not complete a parenting assessment or a mental health evaluation. He also

² Father has a criminal history which includes a 2013 conviction for Class A misdemeanor possession of marijuana. Exhibit Binder, Volume 1 at 4.

admitted to missing visits with his Children and leaving the visits before they had concluded.

- [18] Mother testified that she is currently living between three places, her mother's house, her mother's boyfriend's cabin, and a friend's house. Mother has been unemployed since May 2021, and she testified that she left her last employ because her coworkers were active drug users. Mother does not have a bank account and has no money in savings but receives around \$300.00 per month in food stamps. Mother admitted to frequenting casinos with Father.
- [19] Mother told the juvenile court that she has used methamphetamine for the past five years, but she completed a substance abuse treatment program at Transitions Recovery in May 2021. Mother did complete a substance abuse assessment, and she was referred to another treatment facility, Samaritan Center, in July 2021. Although Mother called the facility several times, she did not participate in any treatment programs. Mother testified that approximately two weeks before the termination hearing, she contacted a hospital for help with her substance abuse and mental health issues, but she was not admitted.
- [20] Mother submitted to some random drug screens during the CHINS proceedings. She tested positive for oxycodone twice in January 2020. And she tested positive for methamphetamine and amphetamine once in February 2020, and twice in June 2021. Mother has not submitted to a drug screen since 2021, but she testified that she began using methamphetamine again after

attending the Transitions Recovery treatment program and that she last used illegal substances the weekend before the termination hearing occurred.

[21] FCM Rebekah Campbell was assigned to Parents and Children in June 2021. She testified that she believed the conditions which led to Children’s removal from Parents’ care had not been remedied, Parents posed a threat to Children’s wellbeing, and termination of Parents’ parental rights to Children was in Children’s best interests. Specifically, she testified that Parents were not compliant with the dispositional orders. She further testified that there was no indication that Parents could provide a safe and stable home for Children or secure a stable source of income sufficient to allow them to provide for Children’s needs. She told the court that Parents were not compliant with their home-based casework, “which is put in place to assist with the barriers for employment [and] transportation”; they were inconsistent with their attendance at the supervised visitations with Children; and Parents had not submitted to a drug screen since FCM Campbell was assigned to the case, which prevented the FCM from determining if Parents were sober. Tr., Vol. 2 at 186. The last time that FCM Campbell was able to offer drug screens to Parents was on November 23, 2021. But Mother told the FCM that she felt “pretty unmotivated” to submit to the test because of the termination proceedings, and Father told the FCM he did not want to submit to the test because he had been to the hospital and had been prescribed medication – though he did not provide any documentation to support his claim. *Id.* at 190. Regarding Mother’s struggles with transportation to her appointments, the FCM testified that one of Mother’s

home-based caseworkers arranged for Mother to have a gas card. The card was available to Mother on January 25, 2022, but Mother did not pick up the card until three weeks later, the day before the termination hearing.

[22] Elizabeth Grant, the court appointed special advocate (“CASA”) since March 2021, agreed that it would be in Children’s best interests for Parents’ parental rights to be terminated because Parents’ “involvement has been minimal[,]” “there’s been very little engagement [on Parents’ part] in services,” and Parents’ “sporadic” attendance at the supervised visits with Children was “concerning[.]” *Id.* at 215. The CASA informed the court that Children were thriving in their respective placements, and she believed it was an “excellent” permanency plan for Children to remain in their placements and be adopted by their current caregivers. *Id.* at 216.

[23] The juvenile court issued its order terminating Parents’ parental rights on March 15, 2022, finding that termination of their parental rights was in Children’s best interests and that DCS’s permanency plan of adoption for Children was satisfactory. *See* Appealed Order at 12. Based on the juvenile court’s extensive and detailed findings, the court concluded in relevant part:

Children . . . are in need of, and deserve, stability and permanency in their lives. Long-term foster care, even in an excellent home, cannot provide such permanency. [Children] are entitled to permanency and their needs are paramount. [P]arents have had since September 14, 2020 (the date of the dispositional decree in [R’n.Y. and R’c.Y.’s] CHINS proceedings) to accomplish the steps necessary to have . . . Children returned to their care.

* * *

2. There is a reasonable probability that:
 - a. The conditions which resulted in [Children's] removal and continued placement outside the home will not be remedied; and
 - b. Continuation of the parent-child relationship poses a threat to [Children's] wellbeing.
3. Termination of parental rights is in the best interests of [Children].
4. There is a satisfactory plan for the care and treatment of [Children], that being adoption.

Id. at 13-14 (internal citations omitted). Parents now appeal.

Discussion and Decision

I. Standard of Review

[24] Parents have a right to establish a home and raise their children that is protected by the Fourteenth Amendment to the United States Constitution. *In re D.D.*, 804 N.E.2d 258, 264 (Ind. Ct. App. 2004), *trans. denied*. Although parental rights are of a constitutional dimension, they are not without limitation and the law provides for the termination of these rights when parents are unable or unwilling to meet their parental responsibilities. *In re R.H.*, 892 N.E.2d 144, 149 (Ind. Ct. App. 2008). The involuntary termination of one's parental rights

is the most extreme sanction a court can impose because termination severs all rights of a parent to his or her children. *See In re T.F.*, 743 N.E.2d 766, 773 (Ind. Ct. App. 2001), *trans. denied*. Therefore, termination is intended as a last resort that is available only when all other reasonable efforts have failed. *Id.* The purpose of terminating parental rights is to protect children, not to punish parents. *In re D.D.*, 804 N.E.2d at 265.

[25] When reviewing the termination of parental rights, we do not reweigh the evidence or judge the credibility of witnesses. *Lang v. Starke Cnty. Off. of Fam. & Child.*, 861 N.E.2d 366, 371 (Ind. Ct. App. 2007), *trans. denied*. Instead, we consider only the evidence most favorable to the judgment and the reasonable inferences that can be drawn therefrom. *Id.* Deferring to the juvenile court's unique position to assess the evidence, we will set aside its judgment terminating a parent-child relationship only if it is clearly erroneous. *In re L.S.*, 717 N.E.2d 204, 208 (Ind. Ct. App. 1999), *trans. denied; cert. denied*, 534 U.S. 1161 (2002). Thus, if the evidence and inferences support the decision, we must affirm. *Id.*

[26] As required by Indiana Code section 31-35-2-8(c), the juvenile court entered findings of fact and conclusions thereon. Therefore, we apply a two-tiered standard of review: we first determine whether the evidence supports the findings, then determine whether the findings support the judgment. *Bester v. Lake Cnty. Off. of Fam. & Child.*, 839 N.E.2d 143, 147 (Ind. 2005). "Findings are clearly erroneous only when the record contains no facts to support them either directly or by inference." *Quillen v. Quillen*, 671 N.E.2d 98, 102 (Ind. 1996). A

judgment is clearly erroneous only if the findings do not support the court's conclusions or the conclusions do not support the judgment thereon. *Id.*

II. Termination of Parents' Parental Rights

[27] Before an involuntary termination of parental rights may occur in Indiana, DCS must allege and prove, in relevant part:

(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.

Ind. Code § 31-35-2-4(b)(2). DCS must prove the foregoing elements by clear and convincing evidence. Ind. Code § 31-37-14-2. However, because subsection (b)(2)(B) is written in the disjunctive the juvenile court need only find one of the three elements in that subsection has been proven by clear and

convincing evidence. *See, e.g., In re I.A.*, 903 N.E.2d 146, 153 (Ind. Ct. App. 2009).

[28] We begin by noting that neither parent challenges any of the juvenile court's findings; therefore, we accept the findings as true. *McMaster v. McMaster*, 681 N.E.2d 744, 747 (Ind. Ct. App. 1997). Instead, Mother challenges the juvenile court's conclusion that there is a reasonable probability that the continuation of the parent-child relationships poses a threat to the wellbeing of Children, and she contends that termination of her parental rights is not in Children's best interests. Father argues that the juvenile court committed clear error in concluding that there is a reasonable probability the conditions that resulted in Children's removal will not be remedied, that continuation of the parent-child relationships poses a threat to the wellbeing of Children, and that termination of his parental rights is in Children's best interests. We address Parents' arguments in turn.

A. Mother's Parental Rights – Threat to Children's Wellbeing

[29] Mother contends the evidence does not support the conclusion that allowing her to continue her parental relationship with Children poses a threat to Children's wellbeing. In challenging the evidence underlying the juvenile court's conclusion, Mother makes a number of claims. Mother argues that "[b]y reports of all persons who supervised and/or observed [her] during visits with [Children]," Mother was loving, acted appropriately, and was well prepared for the visits. Brief of Appellant Mother at 8. She asserts that DCS

presented no evidence that her substance abuse resulted in a need for DCS to provide services to Children. And Mother claims that DCS failed to ensure that she was advised of all the services available to her, including services that would have helped her with transportation to her various appointments. However, Mother's arguments amount to an invitation to this court to reweigh the evidence, which we will not do. *See Lang*, 861 N.E.2d at 371.

[30] In determining there is a reasonable probability that the continuation of the parent-child relationships between Mother and Children poses a threat to Children's wellbeing, the juvenile court cited Mother's drug use during the proceedings, and the evidence supports the court's findings. Mother admitted that she had been using methamphetamine for the last five years. And, while she submitted to very few drug screens during the CHINS and termination proceedings, she tested positive for illegal substances five times between January 2020 and June 2021. Mother completed a substance abuse assessment and one substance abuse treatment program, and she should be commended for her achievement, but she did not seek additional substance abuse treatment from the facility to which DCS later referred her. Mother has not submitted to any drug screens since 2021, and FCM Campbell testified that because Mother would not submit to drug screens, she had "no proof that [Mother] is a safe and sober caregiver for the children." Tr., Vol. 2 at 186. And Mother testified that she last used methamphetamine the weekend before the termination hearing. Also, while we do not doubt that Mother loves Children, the evidence presented established that Mother was offered every service available to assist

her with obtaining safe and stable housing, employment, sufficient income to provide for the needs of Children, and transportation. But Mother did not take advantage of the services provided to her.

[31] The evidence supports the juvenile court’s findings and the findings support the court’s judgment. Therefore, we conclude that clear and convincing evidence supports the juvenile court’s determination that the continuation of the parent-child relationships between Mother and Children poses a threat to Children’s wellbeing.

B. Father’s Parental Rights – Remedy of Conditions³

[32] Father contends that DCS did not present sufficient evidence to prove there is a reasonable probability the conditions that resulted in Children’s removal will not be remedied. Father argues that when the termination hearing took place, he and Mother were no longer in a relationship, and Mother was the “primary reason” for Children’s removal as a result of her drug use during pregnancy and her unsafe sleep practices. Brief of the Appellant Father at 7. According to Father, his separation from Mother “remedied the conditions that led to [Children’s] removal from his care,” and his “only failure” was that he “had not engaged in reunification services with DCS.” *Id.* at 7, 11. Father maintains

³ Father challenges the juvenile court's conclusions that 1) the conditions that resulted in Children’s removal will not be remedied and 2) there is a reasonable probability that the continuation of the parent-child relationships poses a threat to the wellbeing of Children. However, as Indiana Code section 31-35-2-4(b)(2)(B) is written in the disjunctive, we need only address on appeal the sufficiency of the evidence to support one element of that subsection of the statute. Accordingly, we address whether DCS presented sufficient evidence to prove that the conditions that resulted in Children’s removal will not be remedied.

that his failure to engage in reunification services was “due in large part to the fact that [he] felt that any services he did participate in failed to bring him any closer to reunifying with his children.” *Id.* at 11.

[33] With respect to whether DCS proved there is a reasonable probability that the conditions that resulted in Children’s removal from Father’s care will not be remedied, we engage in a two-step analysis: “First, we must ascertain what conditions led to [Children’s] placement and retention in [kinship] care. Second, we determine whether there is a reasonable probability that those conditions will not be remedied.” *In re K.T.K.*, 989 N.E.2d 1225, 1231 (Ind. 2013) (quotation omitted).

[34] In the first step, we consider not only the initial reasons for removal, but also the reasons for continued placement outside the home. *In re N.Q.*, 996 N.E.2d 385, 392 (Ind. Ct. App. 2013). In the second step, the juvenile court must judge a parent’s fitness to care for his or her children at the time of the termination hearing, taking into consideration evidence of changed conditions. *In re E.M.*, 4 N.E.3d 636, 643 (Ind. 2014). The court must also “evaluate the parent’s habitual patterns of conduct to determine the probability of future neglect or deprivation of the child.” *Moore v. Jasper Cnty. Dep’t of Child Servs.*, 894 N.E.2d 218, 226 (Ind. Ct. App. 2008) (quotations and citations omitted). “A pattern of unwillingness to deal with parenting problems and to cooperate with those providing social services, in conjunction with unchanged conditions, support a finding that there exists no reasonable probability that the conditions will change.” *In re L.S.*, 717 N.E.2d at 210. 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 Kay L.*, 867 N.E.2d 236, 242 (Ind. Ct. App. 2007).

[35] Children were removed from Father's and Mother's care not only because Mother and Children tested positive for methamphetamine and amphetamine at Children's births but also for other reasons. Regarding twins R'c.Y. and R'n.Y., the twins were removed from Parents' care because Father and Mother did not interact properly with the twins while at the hospital following their birth, Parents had two other children not in their care, and both Mother and Father were observed practicing unsafe sleep practices with the twins. As for twins A.Y. and K.Y., they were removed from Parents' care because Parents had an open CHINS case in which they were not compliant, and Parents would not meet with DCS.

[36] Furthermore, ample evidence was presented to support the juvenile court's conclusion that Father is not likely to remedy the conditions that led to the removal of Children from his care in the first place. Over the course of the CHINS and termination proceedings, Father consistently demonstrated an inability or unwillingness to consistently attend visitation with Children, participate in reunification services, or participate in the assessments that were a prerequisite to services being offered to address his depression and mental health issues – telling one caseworker that he “did not see the purpose” of the services. *Ex.*, Vol. I at 189. Father participated in only thirty visits with twins A.Y. and K.Y. out of the eighty visits that were scheduled. He attended two of

six scheduled visits with these twins in January 2022, and had attended no visits with them in February 2022 – the month the termination hearing took place.

[37] Further, the home-based caseworkers had difficulty locating and communicating with Father; Father submitted to very few drug screens; he failed to complete the substance abuse subtle screening inventory part of his substance abuse assessment; and Father did not complete his mental health evaluation. He did not cooperate with the family and functional parenting assessment, and he refused to sign consent-to-services forms. Father remains unemployed and is, essentially, homeless.

[38] When Father was asked on direct examination at the termination hearing what he thought he needed to do to be reunited with Children, he answered: “I learned real early on that nothing I did was going to reunify me with my children[.]” Tr., Vol. 2 at 37. He added, “I didn’t do anything to deserve my kids to be took from me, let alone be supervised visits with them[,] and . . . I was not getting credited for the drug tests I was passing or the father engagement classes I was taking, [so] it was obvious that nothing I did mattered.” *Id.* at 37-38.

[39] DCS presented ample evidence to prove by clear and convincing evidence that there is a reasonable probability that the reasons for Children’s continued placement outside of Father’s care will not be remedied. Father’s arguments to the contrary are invitations to this court to reweigh the evidence, which we will not do. *See Lang*, 861 N.E.2d at 371.

III. Best Interests of Children

[40] Parents contend the evidence was insufficient to support the juvenile court’s determination that termination was in Children’s best interests. In making a best-interests determination, the juvenile court is required to look beyond the factors identified by DCS and consider the totality of the evidence. *In re J.C.*, 994 N.E.2d 278, 290 (Ind. Ct. App. 2013). The court must subordinate the interests of the parent to those of the children and need not wait until a child is irreversibly harmed before terminating the parent-child relationship. *McBride v. Monroe Cnty. Off. of Fam. & Child.*, 798 N.E.2d 185, 199 (Ind. Ct. App. 2003). Our supreme court has explained that “[p]ermanency is a central consideration in determining the best interests of a child.” *In re G.Y.*, 904 N.E.2d 1257, 1265 (Ind. 2009). “Moreover, we have previously held that the recommendations of the case manager and court-appointed advocate to terminate parental rights, in addition to evidence that the conditions resulting in removal will not be remedied, is sufficient to show by clear and convincing evidence that termination is in the child’s best interests.” *In re J.S.*, 906 N.E.2d 226, 236 (Ind. Ct. App. 2009).

[41] Considering the totality of the evidence before the court, we find no error in the court’s conclusion that termination was in Children’s best interest. Parents were never fully compliant with the dispositional orders and did not make progress in the two years that DCS was providing services. Children were removed from Parents’ care shortly after their births and have not lived with Parents since their removal. By all accounts, Children are thriving in their

respective placements and are meeting their developmental milestones. Both FCM Campbell and CASA Grant testified that termination was in Children's best interests. Thus, sufficient evidence supports the juvenile court's determination that termination of Parents' parental rights is in Children's best interests.

Conclusion

[42] DCS presented sufficient evidence to demonstrate that 1) the continuation of the parent-child relationships between Mother and Children poses a threat to Children's wellbeing, 2) the reasons for Children's continued placement outside of Father's home will not be remedied, and 3) the termination of Parents' parental rights is in Children's best interests. Therefore, the juvenile court's order is not clearly erroneous, and the judgment of the juvenile court is affirmed.

[43] Affirmed.

Mathias, J., and Foley, J., concur.