

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

In the Termination of the Parent-Child Relationship of: E.C. (Minor Child), and A.C. (Mother),
Appellant-Defendant,

v.

Indiana Department of Child Services,
Appellee-Plaintiff.

August 7, 2023

Court of Appeals Case No.
23A-JT-468

Appeal from the Daviess Circuit Court

The Honorable Gregory A. Smith,
Judge

Trial Court Cause No.
14C01-2108-JT-171

Memorandum Decision by Judge Brown
Judge Crone and Senior Judge Robb concur.

Brown, Judge.

- [1] A.C. (“Mother”) appeals the involuntary termination of her parental rights with respect to her child, E.C. We affirm.

Facts and Procedural History

- [2] Mother and J.C. (“Father”) are the parents of E.C., who was born in December 2017.¹ E.C. was born exposed to illegal substances.² On December 28, 2017, DCS filed its first verified petition alleging E.C. was a child in need of services under cause number 14C01-1712-JC-263 (“Cause No. 263”). DCS alleged it received a report on December 26, 2017, that E.C. tested positive for benzodiazepine and opiates at birth.
- [3] On April 19, 2018, Mother admitted that E.C. was a CHINS. In May 2018, the court entered a Dispositional Order requiring Mother to participate in assessments; participate in recommended programs; sign any releases necessary for the family case manager (“FCM”) to monitor compliance with the Dispositional Order; maintain suitable, safe, and stable housing; refrain from using any illegal controlled substances; submit to random drug screens; meet all

¹ Father signed consents to the voluntary relinquishment of his parental rights to E.C. and to E.C.’s adoption, and he does not participate in this appeal. The facts will generally be limited to those pertinent to Mother.

² Mother has at least six biological children, including E.C., and DCS has been involved with all of Mother’s children, beginning, at least, as early as 2007. Four of Mother’s children have been adopted, Mother voluntarily terminated her parental rights to two of her children, her parental rights to two other children were involuntarily terminated, and Mother does not have custody of her fifth child.

personal medical and mental health needs; and report to the FCM any instances of domestic violence. In June 2018, the court closed the case.

[4] On August 6, 2018, DCS received a report alleging Mother had engaged in domestic violence against Father, and the following day, FCM Sean Knabel (“FCM Knabel”) was assigned to work with Mother. FCM Knabel met and spoke with Mother numerous times between August 9 and September 14, 2018, regarding the allegations of domestic violence and Mother’s ongoing drug use, as Mother had tested positive for amphetamine and methamphetamine on August 9, 2018. DCS again alleged that E.C. was a CHINS and developed a Program of Informal Adjustment (“I.A.”) to provide services for Mother. In October 2018, the court approved the I.A. and ordered Mother to participate in the program for a period of six months.

[5] Under the I.A., Mother was referred for services including substance abuse evaluation and treatment, mental health evaluation and treatment, and parent aide services. Mother was required to refrain from using illegal controlled substances, submit to random drug screens, participate in assessments, participate in and successfully complete all recommended programs and treatments, meet all personal medical and mental health needs, and report to the FCM any instances of domestic violence. However, Mother did not comply with the I.A. She did not want to meet with any service providers that she did not choose and did not want to take in-home drug screens. On January 4, 2019, the I.A. was discharged as unsuccessful due to Mother’s lack of cooperation with drug screening.

[6] On January 14, 2019, DCS filed its second verified petition alleging E.C. was a CHINS (“Second CHINS Petition”) under cause number 14C01-1901-JC-15 (“Cause No. 15”). DCS alleged: it received a report on January 12, 2019, that Mother and Father had engaged in domestic violence against each other, Father had attempted to strangle Mother, and both parents had been arrested for domestic battery in the presence of E.C. E.C. was removed from Mother’s home and placed in foster care.

[7] At the factfinding hearing held in April 2019, Mother admitted that E.C. was a CHINS, and in May 2019, the court entered a Dispositional Order requiring Mother to adhere to the same requirements set forth in the Dispositional Order entered in Cause No. 263. In September 2019, the court closed the case.

[8] On May 8, 2020, DCS filed its third verified petition alleging E.C. was a CHINS under cause number 14C01-2005-JC-89 (“Cause No. 89”). DCS alleged: it received a report alleging that in April 2020, Mother and Father were smoking methamphetamine in E.C.’s presence; during an in-home visit, FCM Knabel noticed that Mother appeared impaired and disoriented; and during a Child and Family Team Meeting, Mother had difficulty controlling her movements while submitting to a random drug screen, and almost fell out of her chair. The report also alleged between April 16 and May 4, 2020, Mother had tested positive three times for illegal controlled substances that included methamphetamine, amphetamine, buprenorphine, and THC; Mother had allowed other individuals to live in her home who had a history of illegal controlled substance use; and Mother had drug paraphernalia in her home that

was within reach of E.C. On May 7, 2020, E.C. was removed from Mother's home and placed in foster care.

[9] On June 8, 2020, Mother was admitted to a sober living rehabilitation program at Volunteers of America, and on June 18, 2020, E.C. was placed with Mother at the facility. However, on June 24, 2020, Volunteers of America asked Mother to leave the facility, and Mother did so without completing the sober living program. E.C. was again removed from Mother's care and returned to foster care. On July 1, 2020, the court entered a Dispositional Order in Cause No. 89. On October 8, 2020, upon Mother's admission to past substance abuse and mental health issues, the court entered an Order Adjudicating Child a CHINS.

[10] On November 16, 2020, the court entered an Order on Periodic Case Review which stated that Mother was actively participating in services she had been referred to and had completed her substance abuse assessment. However, the Order stated Mother had tested positive for illegal substances on five out of seventeen drug screens and had tested positive for amphetamine, methamphetamine, THC, or a combination thereof, four times between May and November 2020. Also on November 16, 2020, the court entered a second Dispositional Order in Cause No. 89 requiring Mother to adhere to the same requirements set forth in the Dispositional Orders entered in Cause Nos. 263 and 15. The permanency plan for E.C. was reunification.

- [11] On January 21, 2021, the court entered an Order on Periodic Case Review which stated that Mother had tested positive for illegal substances on three out of six drug screens. The court ordered Mother to produce three clean drug screens before progressing in her visitation with E.C. *Id.* The permanency plan remained reunification. However, in April 2021, the permanency plan was modified to reunification with a concurrent plan of adoption.
- [12] The court entered an Order on Periodic Case Review on July 15, 2021, which stated Mother tested positive for methamphetamine and amphetamine on four random drug screens administered between May and June of 2021, and Mother missed three drug screens during that time period. On August 30, 2021, DCS filed a petition to terminate Mother's and Father's parental rights to E.C.
- [13] The court entered Orders on Periodic Case Review on October 28, 2021, and February 24, 2022. In its October 28 Order, the court stated Mother had tested positive for illegal substances eleven times. In its February 24 Order, the court indicated Mother had not met her personal medical and mental health needs.
- [14] Mother's visitation with E.C. was suspended by court order on April 20, 2022. On May 9, 2022, the court entered an Order Approving Permanency Plan, "admonish[ing] Mother for her continued drug use and failure to remedy the

reasons for [E.C.'s] removal” and ordering Mother’s visitation with E.C. to take place at the county DCS office. Exhibits Volume IV at 95.³

[15] The factfinding hearing for the termination was scheduled to begin on June 21, 2022, but Mother, by counsel, moved to continue the hearing. Mother was transported by ambulance to a local hospital before the start of the hearing because she claimed to be suffering from a condition called serotonin syndrome. That same day, Mother tested positive for methamphetamine. The factfinding hearing was continued to the following day.

[16] The factfinding hearing for the termination proceedings took place on June 22 and November 21, 2022. On August 31, 2022, the court entered an Order on Periodic Case Review which stated Mother had been evicted from her home; was homeless; was no longer employed; and had tested positive for methamphetamine on three drug screens.

[17] At the termination hearing, DCS presented the testimony of Jessica Patton, a visitation supervisor and parent aide; a toxicologist; a therapist and a caseworker employed by Ireland Home Based Services; Detral Lewis, Director of Clinical Services at the YWCA of Evansville, Indiana; FCM Knabel; Family Case Manager Brian Sulinski (“FCM Sulinski”); Court Appointed Special

³ The .pdf pagination and the numbering placed on the bottom of the Exhibits Volume do not match. For purposes of this decision, we refer to the numbers represented in the .pdf pagination.

Advocate P.J. Joyce (“CASA Joyce”); and Mother. Mother’s evidence consisted of her own testimony.

- [18] Patton, who supervised Mother’s visits with E.C., began working with Mother in 2018. Patton testified that while Mother was generally prepared for her visits with E.C, Mother’s visitation with E.C. changed from monitored visits in Mother’s home to supervised visits at a DCS office because Mother continued to test positive for methamphetamine.
- [19] Jerome Reed, a toxicologist employed by a drug testing facility, testified that his facility tested fifty-nine drug screens from Mother between March 2019 and May 2021, and of the twenty-six screens that returned a positive result, sixty to seventy percent were positive for methamphetamine.
- [20] Morgan Bottomley, a therapist with Ireland Home Based Services began working with Mother in March 2022, to provide individual home-based therapy services. Bottomley testified that on August 24, 2022, she transported Mother to a shelter because Mother had been evicted from her apartment; Mother admitted to a drug relapse that had occurred in August 2022; Mother was “kicked out” of the shelter because she had violated the shelter’s rules; and Mother was living at a motel. Transcript Volume II at 232. Bottomley also testified she attempted to find a facility for Mother which specialized in mental health services and drug rehabilitation, but Mother refused to participate in any program that would not allow her to bring E.C. with her. Bottomley told the court that she last met with Mother on September 13, 2022.

[21] Brittney Phillips, a caseworker with Ireland Home Based Services, was assigned to work with Mother in October 2022. Phillips testified that when she first met with Mother, Mother did not have housing, and Mother told Phillips that she was living in a tent. Phillips told the court she helped Mother qualify for housing through a housing agency, but Mother decided she did not want the housing. Phillips testified she last met with Mother on November 8, 2022. When Phillips was asked if Mother had made any progress toward her goals, Phillips responded in the negative.

[22] Lewis, the clinical services director at the Evansville YWCA, testified Mother applied to participate in the facility's sober living substance abuse program on August 22, 2022, but was not accepted because of her health problems and the impact it would have on her ability to work as well as her inability to follow the program guidelines; because she had been discharged from a homeless shelter she had resided in; and because she had pending criminal charges. Lewis testified that Mother listed the following medical conditions on her application: "[p]ancreatic cancer, diabetes, PTSD, sickle cell, [obsessive-compulsive disorder ("OCD")], and hepatitis C." Transcript Volume II at 210. Lewis further testified that on October 17, 2022, Mother was admitted into the Evansville YWCA's emergency shelter, but Mother left four days later. Lewis testified that when she saw Mother at the shelter, she told Mother to reapply for the sober living program, but Mother did not do so.

[23] FCM Knabel testified Mother "regularly" tested positive on her drug screens for methamphetamine and THC. FCM Knabel further testified that in April 2020,

he discussed Mother's drug use, and Mother stated, "she was going to see if her pastor friend . . . would [be willing to look after E.C.] because [Mother] wanted to get wasted." *Id.* at 180. FCM Knabel also testified he was aware Mother had diabetes, and he told the court: "[J]ust from seeing the foods that she ate and the things that she drank, it didn't seem like she was taking it very seriously, and she would often be eating prepackaged snack-cakes and drinking full sugar sodas out of the 2-liter [bottle] or fruit juices out of the bottle, like [a] half-gallon bottle." *Id.* at 183.

[24] FCM Sulinski testified he began working with Mother in the summer of 2020. He testified to Mother's ongoing illegal substances abuse, telling the court that he would attempt to administer drug screens to Mother weekly; "[m]ore often than not[,] Mother would test positive for illegal substances; and the last time Mother submitted to a drug screen was on August 17, 2022. Transcript Volume III at 31. Regarding drug treatment services DCS offered to Mother, FCM Sulinski testified that Mother "refused flat out to work with" one facility and was "against" participating in group therapy at another facility. *Id.* at 34.

[25] CASA Joyce, who had worked with Mother since May 2020, testified that E.C. was removed from Mother's care because of Mother's substance abuse and history of domestic violence and that E.C. has remained in foster care since being removed from Mother's care in 2020. CASA Joyce testified that her main concern was Mother's ongoing substance abuse. CASA Joyce further testified that she was concerned with Mother's mental health and numerous medical issues.

[26] Mother testified that she has been using methamphetamine “off and on” for twenty-one years. Transcript Volume II at 33. Mother told the court, “I’m not going to say that I’m never going to use again because it is really hard for me to stay sober a lot of the time.” *Id.* at 34. She admitted to using methamphetamine approximately one month before the termination hearing. Regarding her medical conditions, Mother testified that she has pancreatic cancer, type one diabetes, hepatitis C, OCD, post-traumatic stress disorder, and is bipolar. She told the court she stopped seeing her doctors “[a]bout a year and a half” ago because she was depressed and was “hermiting” herself in her home. *Id.* at 51. At the November 21, 2022 termination hearing, Mother testified that she was living in a tent and admitted she had not signed any releases for her medical records because she did not want her therapist to use the information against her in the termination case. On cross-examination, Mother acknowledged she “do[es] not have [her] life together.” Transcript Volume III at 80.

[27] On February 10, 2023, the court entered a thirty-five-page order concluding that the conditions resulting in E.C.’s removal and continued placement outside the home will not be remedied, continuation of the parent-child relationship posed a threat to E.C.’s well-being, termination of the parent-child relationship was in E.C.’s best interests, and there was a satisfactory plan for the care and treatment of E.C.

Discussion

[28] Mother argues the trial court erred in terminating her parental rights. Mother contends the court erred in finding she was “unable or unwilling to take the actions necessary for reunification[.]” Appellant’s Brief at 21. Mother does not specify which of the court’s more than 179 findings she is challenging, but the State indicates Mother references Findings 172 and 173, which provide:

172) In the matter at hand, Mother has not remedied the reasons for the initial removal or continued removal, as evidenced by her continued use of illegal substances and her inability or unwillingness to accept and address her addiction; her failure to address her physical and mental health; her complete lack of stability; her continued exposure to domestic violence; and her unwillingness or inability to participate and progress in services recommended to facilitate reunification.

173) Mother’s unremedied use of illegal substances, lack of stability, and inability to care for any of her children is [sic] indicative of an ongoing inability to care for [E.C.]

Appealed Order at 27-28. Mother claims she addressed her mental health issues by participating in individual therapy; attended addiction recovery groups; complied with DCS requests that she sign releases for access to her medical records; participated in other types of therapy, participated in visits with E.C.; worked multiple jobs; secured housing; and extricated herself from an abusive marriage. Mother argues the court’s conclusion that there is a reasonable probability the conditions resulting in E.C.’s removal will not be remedied was not supported by sufficient evidence. She also argues she was

denied due process because DCS failed to provide her with family counseling, therapy, and mental health services in a timely manner.

[29] In order to terminate a parent-child relationship, DCS is required to allege and prove, among other things:

(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). If the court finds that the allegations in a petition described in Ind. Code § 31-35-2-4 are true, the court shall terminate the parent-child relationship. Ind. Code § 31-35-2-8(a).

[30] A finding in a proceeding to terminate parental rights must be based upon clear and convincing evidence. Ind. Code § 31-37-14-2. We do not reweigh the evidence or determine the credibility of witnesses but consider only the evidence that supports the judgment and the reasonable inferences to be drawn

from the evidence. *In re E.M.*, 4 N.E.3d 636, 642 (Ind. 2014). We confine our review to two steps: whether the evidence clearly and convincingly supports the findings, and then whether the findings clearly and convincingly support the judgment. *Id.* We give due regard to the trial court’s opportunity to judge the credibility of the witnesses firsthand. *Id.* “Because a case that seems close on a ‘dry record’ may have been much more clear-cut in person, we must be careful not to substitute our judgment for the trial court when reviewing the sufficiency of the evidence.” *Id.* at 640.

[31] In determining whether the conditions that resulted in a child’s removal will not be remedied, we engage in a two-step analysis. *See id.* at 642-643. First, we identify the conditions that led to removal, and second, we determine whether there is a reasonable probability that those conditions will not be remedied. *Id.* at 643. In the second step, the trial court must judge a parent’s fitness as of the time of the termination proceeding, taking into consideration evidence of changed conditions, balancing a parent’s recent improvements against habitual patterns of conduct to determine whether there is a substantial probability of future neglect or deprivation. *Id.* We entrust that delicate balance to the trial court, which has discretion to weigh a parent’s prior history more heavily than efforts made only shortly before termination. *Id.* Requiring trial courts to give due regard to changed conditions does not preclude them from finding that a parent’s past behavior is the best predictor of future behavior. *Id.* The statute does not simply focus on the initial basis for a child’s removal for purposes of determining whether a parent’s rights should be terminated, but also those bases

resulting in the continued placement outside the home. *In re N.Q.*, 996 N.E.2d 385, 392 (Ind. Ct. App. 2013). A court may consider evidence of a parent's prior criminal history, drug abuse, history of neglect, failure to provide support, lack of adequate housing and employment, and the services offered by DCS and the parent's response to those services. *Id.* Where there are only temporary improvements and the pattern of conduct shows no overall progress, the court might reasonably find that under the circumstances the problematic situation will not improve. *Id.*

[32] To the extent Mother does not challenge the court's findings of fact, the unchallenged facts stand as proven. *See In re B.R.*, 875 N.E.2d 369, 373 (Ind. Ct. App. 2007) (failure to challenge findings by the trial court resulted in waiver of the argument that the findings were clearly erroneous), *trans. denied*.

[33] Regarding Mother's argument that Findings 172 and 173 are clearly erroneous, we disagree. The evidence established that Mother continued to test positive for methamphetamine; failed to manage and consistently seek physician care for her serious medical conditions; failed to provide signed releases for access to her medical records; failed to consistently submit to drug screens and participate in drug rehabilitation, therapy, and home-based services; continued to be exposed to domestic violence; and failed to secure stable housing. Thus, the challenged findings are not clearly erroneous.

[34] With respect to Mother's argument challenging the sufficiency of the evidence supporting the court's conclusion there is a reasonable probability the

conditions resulting in E.C.'s removal will not be remedied, the court made at least 170 unchallenged findings in support of its determination. The court found that Mother had not had stable employment or a stable income throughout the CHINS proceeding; Mother had been using methamphetamine since she was twenty-one years old; she had submitted to over 100 drug screens and tested positive for illegal substances on over fifty percent of the screens; and Mother tested positive for methamphetamine on the day the termination hearing was scheduled to begin. It found that since E.C. was removed from Mother's care, Mother had not completed an in-patient drug rehabilitation program, failed to take advantage of the services offered to her to address her substance abuse, failed to show she could be a safe and sober caregiver for E.C., and in November 2022, Mother disclosed that she was living in a tent. The court found that Mother did not seek or receive medical care for her medical conditions throughout the CHINS proceedings. The court further found that Mother had been offered services through child protective services for twenty years. We conclude the evidence DCS presented at the termination hearing clearly and convincingly supports the findings, and the findings clearly and convincingly support the court's determination that there is a reasonable probability the conditions resulting in E.C.'s removal will not be remedied.

[35] To the extent Mother asserts DCS did not afford her due process because DCS failed to provide her with family counseling, therapy, and mental health services in a timely manner, it has been established that, as a matter of statutory elements, DCS is not required to provide parents with services prior to seeking

termination of the parent-child relationship. *In re T.W.*, 135 N.E.3d 607, 612 (Ind. Ct. App. 2019), *trans. denied*. However, parents facing termination proceedings are afforded due process protections. *Id.* We have discretion to address such due process claims even where the issue is not raised below. *Id.* CHINS and termination of parental rights proceedings “are deeply and obviously intertwined to the extent that an error in the former may flow into and infect the latter[,]” and procedural irregularities in a CHINS proceeding may deprive a parent of due process with respect to the termination of his or her parental rights. *Id.* (citing *Matter of D.H.*, 119 N.E.3d 578, 588 (Ind. Ct. App. 2019), *aff’d in relevant part on reh’g, trans. denied*). See also *In re J.K.*, 30 N.E.3d 695, 699 (Ind. 2015) (holding “when the State seeks to terminate the parent-child relationship, it must do so in a manner that meets the requirements of due process”) (quoting *In re G.P.*, 4 N.E.3d 1158, 1165 (Ind. 2014) (alteration and internal quotation marks omitted)).

[36] “Due process requires ‘the opportunity to be heard at a meaningful time and in a meaningful manner.’” *In re K.D.*, 962 N.E.2d 1249, 1257 (Ind. 2012) (quoting *Mathews v. Eldridge*, 424 U.S. 319, 333, 96 S. Ct. 893 (1976)). The Indiana Supreme Court has held that “the process due in a termination of parental rights action turns on balancing three *Mathews* factors: (1) the private interests affected by the proceeding; (2) the risk of error created by the State’s chosen procedure; and (3) the countervailing governmental interest supporting use of the challenged procedure.” *Id.* (citing *In re C.G.*, 954 N.E.2d 910, 917 (Ind. 2011)). “In balancing the three-prong *Mathews* test, we first note that the private

interest affected by the proceeding is substantial – a parent’s interest in the care, custody, and control of her child.” *In re C.G.*, 954 N.E.2d at 917. “We also note the countervailing *Mathews* factor, that the State’s *parens patriae* interest in protecting the welfare of a child is also substantial.” *Id.* Thus, we focus on the risk of error created by the actions of DCS and the trial court. *See id.*

[37] DCS is required to make reasonable efforts to reunify parents and children during CHINS proceedings, but that requirement “is not a requisite element of our parental rights termination statute, and a failure to provide services does not serve as a basis on which to directly attack a termination order as contrary to law.” *A.Z. v. Ind. Dep’t of Child Servs.*, 915 N.E.2d 145, 148 n.3 (Ind. Ct. App. 2009). And a parent may not sit idly by without asserting a need or desire for services and then successfully argue that he or she was denied services to assist her with her parenting. *In re B.D.J.*, 728 N.E.2d 195, 201 (Ind. Ct. App. 2000).

[38] Here, the court found that Mother has been offered services through child protective services for twenty years. In presenting her due process argument, Mother fails to acknowledge the evidence establishing that in 2018, she was ordered to participate in an I.A. and was referred for services which included substance abuse evaluation and treatment, mental health evaluation and treatment, and parent aide services, but Mother refused to meet with any service providers that she did not choose. The court’s July 1, 2020, Dispositional Order indicates that at that time, Mother had been offered home-based services through Ireland Home Based Services. Simply put, Mother was offered services aimed at reunifying her with E.C. at least as early as 2018.

Thus, the record does not support Mother's claim that she was denied due process because DCS failed to provide her with certain services in a timely manner.

[39] In determining the best interests of children, the trial court is required to look to the totality of the evidence. *McBride v. Monroe Cnty. Off. of Fam. & Child.*, 798 N.E.2d 185, 203 (Ind. Ct. App. 2003). The court must subordinate the interests of the parent to those of the children. *Id.* The court need not wait until a child is irreversibly harmed before terminating the parent-child relationship. *Id.* The recommendation of a case manager and child 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 children's best interests. *A.D.S. v. Ind. Dep't of Child Servs.*, 987 N.E.2d 1150, 1158-1159 (Ind. Ct. App. 2013), *trans. denied.*

[40] FCM Sulinski testified that he recommended the termination of Mother's parental rights to E.C. and the adoption of E.C. by his foster care placement. FCM Sulinski testified to his "specific concerns" regarding Mother, telling the court, "[m]y specific concerns [are] that she's unable to seek a stable environment not only for herself, but for her child[,] . . . and her inability to successfully address her mental health or care about her own physical health." Transcript Volume III at 45. CASA Joyce testified she recommended termination of Mother's parental rights to E.C. and that E.C. be adopted because the reasons for E.C.'s removal from Mother's care had not been remedied, and Mother "has been non[-]compliant the whole duration of this

case. She's also never been free of substance abuse. I believe now there's a housing issue. She cannot provide stability or [E.C.'s] basic needs or a sober caregiver." *Id.* at 13-14. When asked on direct examination if she thought Mother had not adequately participated in or benefited from the services that had been offered to her, CASA Joyce testified that she agreed with the statement. Based on the totality of the evidence, we conclude the trial court's determination that termination is in E.C.'s best interests is supported by clear and convincing evidence.

[41] For the foregoing reasons, we affirm the trial court.

[42] Affirmed.

Crone, J., and Robb, Sr.J., concur.