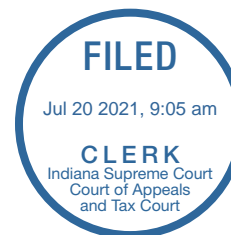


## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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## IN THE COURT OF APPEALS OF INDIANA

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In the Matter of the Involuntary  
Termination of the Parent-Child  
Relationship of: J.R. and N.R.  
(Minor Children),

and

A.S. (Mother),

*Appellant-Respondent,*

v.

The Indiana Department of  
Child Services,

*Appellee-Petitioner.*

July 20, 2021

Court of Appeals Case No.  
21A-JT-252

Appeal from the Hendricks  
Superior Court

The Honorable Mary G. Willis,  
Senior Judge

Trial Court Cause Nos.  
32D03-2007-JT-19  
32D03-2007-JT-20

**Tavitas, Judge.**

## **Case Summary**

- [1] On appeal from the termination of her parental rights, A.S. (“Mother”) challenges only the trial court’s conclusion that a satisfactory post-termination plan existed for the children’s care. Because adoption was the satisfactory post-termination plan, we affirm.

## **Issue**

- [2] The lone issue on appeal is whether the trial court clearly erred in concluding that a satisfactory post-termination plan existed for the care of the Children.

## **Facts**

- [3] Mother and J.R.<sup>1</sup> (“Father”) are the parents of Jo.R. and N.R. (the Children”). N.R., who was born in August 2004, is severely autistic, non-verbal, and self-harms. Jo.R., who was born in June 2006, is speech-delayed, has a history of heart issues, and has attention-deficit hyperactivity disorder. On March 19, 2019, Mother made a distress call to the police and “indicated she was concerned for her own safety and the safety of the Children.” Mother’s App. Vol. II p. 48. Responding officers transported Mother to the St. Vincent Stress Center where Mother: (1) tested positive for amphetamine, methamphetamine,

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<sup>1</sup> Father was not involved at any stage of the underlying proceedings. The trial court terminated Father’s parental rights contemporaneously with Mother’s parental rights; he is not a party to this appeal.

and opiates; (2) “present[ed] with paranoia and psychosis”; and (3) “stated [ ] her children were not safe in her care[.]” Tr. Vol. II p. 27. Thereafter, the Hendricks County Office of the Department of Child Services (“DCS”) investigated for alleged child neglect and endangerment; substantiated the allegations; and placed the Children with their maternal grandparents.

[4] On March 20, 2019, DCS filed petitions alleging that the Children were children in need of services (“CHINS”). On May 24, 2019, DCS and Mother filed an “Agreed Entry on Fact-finding, Disposition, and Parental Participation” with the trial court, wherein Mother admitted the Children were CHINS and agreed to cooperate with DCS and participate in services. Exhibits Vol. p. 93. Days later, the maternal grandmother tested positive for methamphetamine and THC. Unable to find suitable relative placement, DCS placed the Children in foster care.

[5] On June 19, 2019, the trial court held a dispositional hearing. Pursuant to the dispositional decree entered<sup>2</sup> that day, Mother was required to: (1) complete a substance abuse assessment and follow treatment recommendations; (2) abstain from alcohol and drugs; (3) submit to drug screens; (4) undergo a psychological evaluation; (5) maintain suitable housing and a stable income; and (6) obey the law. On July 1, 2019, the trial court adjudicated the Children as CHINS. During the CHINS period, Mother: (1) continued to abuse methamphetamine,

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<sup>2</sup> The trial court also entered a parental participation decree that same day. See Exhibits Vol. pp. 117-20.

amphetamine, and THC; (2) could not maintain employment; (3) had unstable housing; (4) was arrested for multiple impaired driving offenses; and (5) was discharged from services for noncompliance.

[6] On July 10, 2020, DCS filed petitions to terminate Mother’s parental rights. The fact-finding hearing on the termination petition commenced on September 23, 2020 and resumed on December 16, 2020. In the intervening period, Mother failed numerous drug tests,<sup>3</sup> including one on December 9, 2020. At the hearing, DCS family case manager Michael Rondon (“FCM Rondon”) testified as follows about the post-termination plan for the Children:

Q: And what is that plan?

A: Adoption.

Q: And how did you reach that conclusion?

A: [ ] [W]e reached this conclusion by participating in permanency round table which is [ ] a meeting with professionals. Such as, foster care specialists. Clinical consultants. [ ] [A]nd more. [ ] [T]o discuss the cases. At that time . . . it was concluded that adoption would be in the children’s best interests especially based on the fact that there are no other [ ]familial care givers in Mo[ther]’s life that would be an appropriate placement for the kids.

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<sup>3</sup> Mother tested positive for methamphetamine and amphetamine four times in October 2020 and four times in November 2020. *See Exhibits Vol. pp. 8-20.*

*See* Tr. Vol. II p. 43. On January 4, 2021, the trial court terminated Mother’s and Father’s parental rights to the Children. Mother now appeals.

## Analysis

[7] The Fourteenth Amendment to the United States Constitution protects the traditional rights of parents to establish a home and raise their children. *In re K.T.K. v. Indiana Dep’t. of Child Serv., Dearborn Cnty. Off.*, 989 N.E.2d 1225, 1230 (Ind. 2013). “[A] parent’s interest in the upbringing of [his or her] child is ‘perhaps the oldest of the fundamental liberty interests recognized by th[e] [c]ourt[s].’” *Id.* (quoting *Troxel v. Granville*, 530 U.S. 57, 65, 120 S. Ct. 2054 (2000)). We recognize that parental interests are not absolute and must be subordinated to the child’s best interests when determining the proper disposition of a petition to terminate parental rights. *Id.*; *see also Matter of Ma.H.*, 134 N.E.3d 41, 45 (Ind. 2019) (“Parents have a fundamental right to raise their children—but this right is not absolute.”), *cert. denied*, 140 S. Ct. 2835 (2020), *reh’g denied*. “When parents are unwilling to meet their parental responsibilities, their parental rights may be terminated.” *Ma.H.*, 134 N.E.3d at 45-46.

[8] Pursuant to Indiana Code Section 31-35-2-8(c), “[t]he trial court shall enter findings of fact that support the entry of the conclusions required by subsections (a) and (b)” when granting a petition to terminate parental rights.<sup>4</sup> Here, the

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<sup>4</sup> Indiana Code Sections 31-35-2-8(a) and (b), governing termination of a parent-child relationship involving a delinquent child or CHINS, provide as follows:

trial court did enter findings of fact and conclusions thereon in granting DCS's petition to terminate Mother's parental rights. We affirm a trial court's termination of parental rights decision unless it is clearly erroneous. *Ma.H.*, 134 N.E.3d at 45. A termination of parental rights decision is clearly erroneous when the trial court's findings of fact do not support its legal conclusions, or when the legal conclusions do not support the ultimate decision. *Id.* We neither reweigh the evidence nor judge witness credibility, and we consider only the evidence and reasonable inferences that support the court's judgment. *Id.*

[9] Indiana Code Section 31-35-2-8(a) provides that "if the court finds that the allegations in a petition described in [Indiana Code Section 31-35-2-4] are true, the court shall terminate the parent-child relationship." Indiana Code Section 31-35-2-4(b)(2) provides that a petition to terminate a parent-child relationship involving a child in need of services must allege, in 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

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- (a) Except as provided in section 4.5(d) of this chapter, if the court finds that the allegations in a petition described in section 4 of this chapter are true, the court shall terminate the parent-child relationship.
- (b) If the court does not find that the allegations in the petition are true, the court shall dismiss the petition.

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.

DCS must establish these allegations by clear and convincing evidence. *In re V.A.*, 51 N.E.3d 1140, 1144 (Ind. 2016).

[10] Mother argues only<sup>5</sup> that DCS “provided [ ] a vague explanation that [it] planned to have the children adopted, but [ ] no information that was sufficient to prove by clear and convincing evidence that a satisfactory plan [existed]” for the Children’s care. Mother’s Br. p. 6 (conceding “DCS presented sufficient evidence to meet its burden on all other prongs necessary for termination”).

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<sup>5</sup> Mother does not challenge any of the trial court’s findings of fact. She has, thereby, waived any arguments relating to the unchallenged findings. *See In re S.S.*, 120 N.E.3d 605, 614 n.2 (Ind. Ct. App. 2019) (explaining that this Court accepts unchallenged findings as true).

[11] It is well-settled that “DCS must provide sufficient evidence [that] there is a satisfactory plan for the care and treatment of the child.” *In re J.C.*, 994 N.E.2d 278, 290 (Ind. Ct. App. 2013) (citing Ind. Code § 31-35-2-4(b)(1)(D)), *reh’g denied*. To be deemed satisfactory, a plan ““need not be detailed, provided it offers a general sense of the path ahead for the child, upon termination of the parent-child relationship.”” *Id.* “A DCS plan [of adoption] is satisfactory if the plan is to attempt to find suitable parents to adopt the children. [ ][T]here need not be a guarantee that a suitable adoption will take place, only that DCS will attempt to find a suitable adoptive parent.” *Lang v. Starke Cnty. Off. of Fam. & Child.*, 861 N.E.2d 366, 375 (Ind. Ct. App. 2007), *trans. denied*.

[12] Here, FCM Rondon testified that, in consultation with experts, DCS selected adoption as the Children’s post-termination plan because no suitable relative placement options existed. Sufficient evidence, thus, exists to support the finding that the plan is adoption, and this alone is sufficient to meet the requirement that DCS has a satisfactory plan. Accordingly, the trial court did not clearly err in concluding that DCS had a satisfactory plan for the care of the Children. *See In re A.S.*, 17 N.E.3d 994, 1007 (Ind. Ct. App. 2014) (finding DCS’s adoption plan was satisfactory).

## **Conclusion**

[13] The trial court’s conclusion that DCS had a satisfactory post-termination plan for the Children’s care was not clearly erroneous. We affirm.

[14] **Affirmed.**



Najam, J., and Pyle, J., concur.