

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

In Re: The Termination of the
Parent-Child Relationship of
P.S. (Minor Child);

V.S. (Mother),

Appellant-Respondent

v.

The Indiana Department of
Child Services,

Appellee-Petitioner.

July 17, 2023

Court of Appeals Case No.
22A-JT-2956

Appeal from the Gibson Circuit
Court

The Honorable Roman Ricker,
Magistrate

Trial Court Cause No.
26C01-2203-JT-60

Memorandum Decision by Judge Pyle

Chief Judge Altice and Judge Riley concur.

Pyle, Judge.

Statement of the Case

[1] V.S. (“Mother”) appeals the termination of the parent-child relationship with her daughter, P.S. (“P.S.”). Mother argues that there is insufficient evidence to support the termination. Concluding that there is sufficient evidence to support the termination, we affirm the trial court’s judgment.¹

[2] We affirm.

Issue

Whether there is sufficient evidence to support the termination of the parent-child relationship.

Facts

[3] The evidence and reasonable inferences that support the judgment reveal that Mother is the parent of P.S., who was born in July 2020. In March 2021, forty-year-old Mother left eight-month-old P.S. unattended in her vehicle at night while she played slot machines inside a liquor store in Mount Carmel, Illinois. A bystander heard P.S. “scream[ing] bloody murder” and contacted law enforcement officers. (Ex. Vol. 4 at 57).

¹ P.S.’s father voluntarily relinquished his parental rights.

[4] Because Mother lived in Gibson County, Indiana, DCS received a report about the incident. DCS case managers unsuccessfully attempted to contact Mother at her home for several days at the beginning of April 2021. Although the case managers noticed Mother's car in the parking lot and heard noises coming from Mother's apartment, Mother did not answer the door. When Mother eventually answered the door, Mother acknowledged that she had left P.S. unattended in her vehicle in Mount Carmel while she had played slot machines in a liquor store. Mother also told the case managers that she had frequently left P.S. unattended in her apartment while she had visited friends in another building. The case managers noticed that Mother had difficulty completing basic tasks necessary to care for P.S. In addition, Mother was unable to speak in complete sentences, used vigorous hand movements, and dropped her head to her chest followed by a long pause in her speech. Mother also alternated between hysterically laughing and crying. Mother further told the case managers that she had not paid rent for eight months and that she had received an eviction notice. However, according to Mother, the landlord could not evict her at that time because of the pandemic. Mother also refused to submit to a drug screen. Concerned about Mother's ability to care for P.S., the case managers removed P.S. from Mother's home and placed her in foster care. Mother subsequently tested positive for methamphetamine.

[5] Two days later, DCS filed a petition alleging that P.S. was a child in need of services ("CHINS"). In June 2021, during procedural delays in the CHINS case, DCS family case manager Haley Redmond ("FCM Redmond") advised

the trial court that Mother had been “verbally attacking [service] providers and making inappropriate comments about their ethnicity and work ethic.” (Ex. Vol. 3 at 240). Mother had also threatened to kidnap P.S. during visits. In addition, Mother had called FCM Redmond an “idiot” and a “bitch” and had also told FCM Redmond “to stick a fork in an electrical outlet.” (Ex. Vol. 3 at 240).

[6] In July 2021, Mother admitted that P.S. was a CHINS. The trial court issued a dispositional order in August 2021. That order required Mother to: (1) contact the DCS family case manager every week; (2) complete all assessments and programs ordered by the DCS family case manager; (3) maintain suitable, safe, and stable housing; (4) secure and maintain a legal and stable source of income; (5) abstain from the use of illegal substances and alcohol; (6) obey the law; (7) submit to random drug screens; (8) complete a psychological evaluation and follow all of the assessor’s recommendations; and (9) attend all scheduled visits with P.S.

[7] In October 2021, after being involved in an automobile accident, Mother abandoned her vehicle and fled the scene (“the October 2021 car accident”). Mother also left her service dog in the vehicle, and she subsequently tested positive for methamphetamine while being treated for injuries suffered during the accident.

[8] One week later, DCS filed a verified information for rule to show cause and advised the trial court that Mother had failed to follow the CHINS dispositional

order. DCS specifically explained that Mother had: (1) failed to maintain consistent contact with DCS; (2) received a second eviction notice for non-payment of rent; (3) failed to complete a substance abuse assessment; (4) failed to meet with a home-based case worker; (5) failed to complete a psychological evaluation; (6) refused to sign releases to verify her employment; (7) missed thirty-two call-ins for random drug screens and tested positive for methamphetamine in September and October 2021; (8) missed and/or cancelled multiple visits with P.S.; and (9) been involved in a car accident and had fled from the scene. In addition, DCS advised the trial court that it had learned that Mother had multiple criminal cases pending in Illinois. These cases included charges for aggravated battery on a victim more than sixty years old, felony possession of methamphetamine, misdemeanor causing a child to be endangered for leaving P.S. unattended in her vehicle in March 2021, and misdemeanor criminal trespass. Mother had not told DCS about these pending charges. The trial court scheduled a show cause hearing for February 2022.

[9] In November 2021, the State charged Mother with Class B misdemeanor failure to stop after an accident for the October 2021 car accident. Mother attended an outpatient substance abuse treatment program in December 2021 but tested positive for methamphetamine later that month. Mother then refused to submit to drug screens in January 2022. In addition, during those months, Mother's visits with P.S. were inconsistent. Mother was evicted from her apartment in January 2022 for failure to pay rent, and the trial court subsequently ordered Mother to pay her landlord nearly \$4,000 in past due rent. Following her

eviction, Mother never obtained stable housing. Mother also never obtained stable employment.

[10] In February 2022, Mother pleaded guilty, pursuant to a plea agreement, to the November 2021 charge of Class B misdemeanor failure to stop after an accident. Pursuant to the terms of the plea agreement, the trial court sentenced Mother to 180 days in the county jail and suspended the sentence to probation. The terms of Mother’s probation included abstaining from the use of illegal drugs, following all state and local laws, and being respectful to all contract staff, including treatment providers.

[11] Also in February 2022, the trial court held a hearing on DCS’ October 2021 information on rule to show cause. Following the hearing, the trial court found Mother to be in contempt for failing to follow the CHINS dispositional order. However, the trial court held sanctions for the contempt under advisement and ordered Mother to follow all probation requirements.

[12] One month later, in March 2022, Mother’s probation officer filed a petition to revoke Mother’s probation after Mother had tested positive for methamphetamine and subsequently refused another drug screen. According to Mother’s probation officer, “the low-end cutoff . . . [for] [t]he methamphetamine test begins at 250 nanograms per milliliter[,]” and Mother’s test results were “greater than 40,000 nanograms per milliliter[.]” (Tr. Vol. 2 at 113). In addition, the revocation petition alleged that Mother had not been

respectful to DCS staff because she had called them vulgar names. The trial court ordered the county clerk to issue an arrest warrant for Mother.

[13] Three days later, the trial court in the CHINS matter held a progress hearing and issued an order finding that Mother had: (1) tested positive for methamphetamine in March 2022; (2) inconsistently attended visits with P.S.; (3) failed to comply with the CHINS dispositional order; and (4) communicated with DCS case managers in a vulgar and inappropriate manner. Two weeks later, at the end of March 2022, DCS filed a petition to terminate Mother's parental relationship with P.S.

[14] At an April 2022 probation revocation hearing, Mother admitted that she had violated the terms and conditions of her probation. The trial court allowed Mother to remain on probation but ordered her to complete an inpatient drug and alcohol program. Three days later, Mother's probation officer filed a second petition to revoke Mother's probation because Mother had left the inpatient treatment program after one day.

[15] Before the trial court had held the probation revocation hearing, Mother was arrested in Illinois and charged with felony domestic battery with a previous conviction after she had physically assaulted her adult daughter in a motel room in the presence of Mother's young grandchildren. At the end of April 2022, Mother's probation officer filed an amendment to the second revocation petition based on Mother's arrest for felony domestic battery in Illinois. Following a May 2022 revocation hearing, the trial court ordered Mother to

serve sixty days in the county jail. Mother was released from the county jail in June 2022 and shortly thereafter tested positive for methamphetamine. In addition, Mother tested positive for methamphetamine in July 2022.

[16] Also, in July 2022, Mother entered a thirty-day inpatient alcohol and drug treatment program at Hour House (“Hour House”) in Illinois. Two days after Mother had completed the program at Hour House, Mother advised DCS Family Case Manager Kayde Lantaff (“FCM Lantaff”) that she was going to participate in a long-term program at Addictions Solutions (“Addictions Solutions”) in Illinois. Mother was intoxicated on alcohol when she entered the program at Addictions Solutions. Mother subsequently transferred to a one-year Addictions Solutions program in Vincennes, Indiana shortly before the termination hearing.

[17] At the September 2022 termination hearing, the trial court heard the facts as set forth above. In addition, FCM Lantaff testified that Mother had been at the Addictions Solutions program in Vincennes for ten days. According to FCM Lantaff, the Addictions Solutions program allows children to visit but does not allow children to stay overnight. FCM Lantaff testified that when she had spoken to Mother about children not being able to spend the night at the facility, Mother had responded that “she did not think that she would even stay there a year.” (Tr. Vol. 2 at 103). FCM Lantaff further testified that during the pendency of the CHINS proceedings, Mother had never asked about P.S. or how P.S. was doing in foster care. FCM Lantaff believed that Mother viewed P.S. as “a possession[.]” and simply “want[ed] to get her back.” (Tr. Vol. 2 at

104). In addition, FCM Lantaff opined that there was a reasonable probability that the continuation of the parent-child relationship between Mother and P.S. posed a threat to P.S.'s well-being. FCM Lantaff further explained that two-year-old P.S. was unable to take care of herself and needed a sober caregiver. Lastly, FCM Lantaff testified that termination was in P.S.'s best interests because P.S., who had been out of Mother's home for eighteen months, deserved stability.

[18] DCS Family Case Manager Mariah Wilhite ("FCM Wilhite"), who had previously been assigned to Mother's case, also opined that there was a reasonable probability that the continuation of the parent-child relationship between Mother and P.S. posed a threat to P.S.'s well-being because Mother had never prioritized the needs of her two-year-old daughter. FCM Wilhite further testified that termination was in P.S.'s best interests because P.S. deserved to have dependable and reliable caregivers. P.S. had been placed with the same foster family since her removal and was "thriving in her placement[.]" (Tr. Vol. 2 at 109). DCS' plan was for the foster family to adopt P.S.

[19] GAL Jill Doggett ("GAL Doggett") testified that she was concerned about Mother's substance abuse issues, recent criminal history, and housing instability. GAL Doggett further testified that termination was in P.S.'s best interests. CASA Brandi Steelman ("CASA Steelman") also testified that termination was in P.S.'s best interests.

[20] Following the hearing, in November 2022, the trial court issued a detailed forty-two-page order terminating Mother's parental relationship with P.S. The trial court's order contained more than 250 findings of fact and included a finding that a continuation of the parent-child relationship between Mother and P.S. posed a threat to P.S.'s well-being.

[21] Mother now appeals.

Decision

[22] Mother argues that there is insufficient evidence to support the termination. The Fourteenth Amendment to the United States Constitution protects the traditional right of parents to establish a home and raise their children. *K.T.K. v. Indiana Department of Child Services, Dearborn County Office*, 989 N.E.2d 1225, 1230 (Ind. 2013). However, the law provides for termination of that right when parents are unwilling or unable to meet their parental responsibilities. *Bester v. Lake County Office of Family and Children*, 839 N.E.2d 143, 147 (Ind. 2005). The purpose of terminating parental rights is not to punish the parents but to protect their children. *In re L.S.*, 717 N.E.2d 204, 208 (Ind. Ct. App. 1999), *trans. denied*.

[23] When reviewing the termination of parental rights, we will not reweigh the evidence or judge the credibility of the witnesses. *K.T.K.*, 989 N.E.2d at 1229. Rather, we consider only the evidence and reasonable inferences that support the judgment. *Id.* Further, in deference to the trial 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. *L.S.*, 717 N.E.2d at 208. In determining whether the court's decision to terminate the parent-child relationship is clearly erroneous, we review the trial court's judgment to determine whether the evidence clearly and convincingly supports the findings and the findings clearly and convincingly support the judgment. *K.T.K.*, 989 N.E.2d at 1229-30.

[24] 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.

IND. CODE § 31-35-2-4(b)(2). DCS must prove the alleged circumstances by clear and convincing evidence. *K.T.K.*, 989 N.E.2d at 1231.

[25] We further note that, in determining whether to terminate a parent-child relationship, trial courts have discretion to weigh a parent's prior history more

heavily than efforts made only shortly before termination and may find that a parent's past behavior is the best predictor of future behavior. *D.B.M. v. Indiana Department of Child Services*, 20 N.E.3d 174, 181-82 (Ind. Ct. App. 2014), *trans. denied*. We have also explained that the time for a parent to rehabilitate himself or herself is during the CHINS process, before DCS files a termination petition. *Prince v. Department of Child Services*, 861 N.E.2d 1223, 1230 (Ind. Ct. App. 2007).

[26] In addition, as a general rule, appellate courts grant latitude and deference to trial courts in family law matters. *Matter of D.P.*, 72 N.E.3d 976, 980 (Ind. Ct. App. 2017). “This deference recognizes a trial court’s unique ability to see the witnesses, observe their demeanor, and scrutinize their testimony, as opposed to this court[] only being able to review a cold transcript of the record.” *Id.*

[27] Mother first argues that DCS failed to prove by clear and convincing evidence that: (1) there is a reasonable probability that the conditions that resulted in P.S.’s removal or the reasons for placement outside the home will not be remedied; and (2) a continuation of the parent-child relationship poses a threat to P.S.’s well-being. However, we note that INDIANA CODE § 31-35-2-4(b)(2)(B) is written in the disjunctive. Therefore, DCS is required to establish by clear and convincing evidence only one of the three requirements of subsection (B). *In re A.K.*, 924 N.E.2d 212, 220 (Ind. Ct. App. 2010), *trans. dismissed*. We therefore discuss only whether DCS proved by clear and convincing evidence that there is a reasonable probability that a continuation of the parent-child relationship posed a threat to P.S.’s well-being.

[28] The continuation of the parent-child relationship poses a threat to a child's well-being when: (1) her parent engages in destructive and dangerous behavior; (2) the behavior is ongoing without any serious sign of improvement; and (3) the behavior poses a threat to the child. *In re A.I.*, 825 N.E.2d 798, 807 (Ind. Ct. App. 2005), *trans. denied*. In *A.I.*, we concluded that evidence of the parents' regular drug use and sporadic domestic violence, as well as their failure to maintain stable employment and housing, was sufficient to support the trial court's finding that the continuation of the parent-child relationship posed a threat to their child's well-being. *Id.* at 811.

[29] Here, our review of the evidence reveals that Mother used methamphetamine throughout the pendency of the CHINS proceedings. Mother's most recent use of methamphetamine occurred in July 2022, four months after DCS had filed the termination petition and just two months before the termination hearing. We further note that Mother has a history of violence and was charged with battering her adult daughter in the presence of Mother's young grandchildren after DCS had filed the petition to terminate Mother's parental relationship with P.S. Mother also failed to maintain stable employment and housing during the pendency of the CHINS proceedings. This evidence supports the trial court's finding that a continuation of the parent-child relationship poses a threat to P.S.'s well-being.

[30] Mother also argues that there is insufficient evidence that termination is in P.S.'s best interests. In determining whether termination of parental rights is in the best interests of a child, the trial court is required to look at the totality of

the evidence. *In re Termination of the Parent-Child Relationship with D.D.*, 804 N.E.2d 258, 267 (Ind. Ct. App. 2004), *trans. denied*. In so doing, the court must subordinate the interests of the parents to those of the child involved. *Id.* Termination of the parent-child relationship is proper where the child's emotional and physical development is threatened. *In re R.S.*, 774 N.E.2d 927, 930 (Ind. Ct. App. 2002), *trans. denied*. The trial court need not wait until the child is irreversibly harmed such that her physical, mental, and social development is permanently impaired before terminating the parent-child relationship. *Id.* In addition, a child's need for permanency is a central consideration in determining the child's best interests. *In re G.Y.*, 904 N.E.2d 1257, 1265 (Ind. 2009). Further, the testimony of the service providers may support a finding that termination is in the child's best interests. *McBride v. Monroe County Office of Family and Children*, 798 N.E.2d 185, 203 (Ind. Ct. App. 2003).

[31] Here, our review of the evidence reveals that at the time of the termination hearing, twenty-six-month-old P.S. had been out of Mother's home for eighteen months. We further note that FCM Lantaff, FCM Wilhite, GAL Doggett, and CASA Steelman all testified that termination was in P.S.'s best interests. The testimony of these service providers, as well as the other evidence previously

discussed, supports the trial court’s conclusion that termination was in P.S.’s best interests.²

[32] Affirmed.

Altice, C.J., and Riley, J., concur.

² We note that Mother challenged the trial court’s Finding of Fact Number 90, which provides that “Mother failed to address her substance abuse issues throughout the life of the case.” (App. Vol. 2 at 71). Mother argues that this finding is not supported by the evidence because she addressed her substance abuse issues by participating in substance abuse treatment programs. DCS responds that the trial “court’s use of the word ‘address’ perhaps should have been ‘improve[]’” since Mother failed to benefit from the treatment programs that she attended. (DCS’ Br. 16). However, even assuming that Finding of Fact Number 90 is not supported by the evidence, the trial court’s more than 250 unchallenged findings of fact are sufficient to support the trial court’s judgment. *See Moriarty v. Moriarty*, 150 N.E.3d 616, 626 (Ind. Ct. App. 2020) (explaining that if the unchallenged findings are sufficient to support the judgment, this Court will affirm), *trans. denied*.