

# MEMORANDUM DECISION

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# IN THE COURT OF APPEALS OF INDIANA

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Termination of Parent-Child  
Relationship of:

B.C., C.C., and A.G. (Minor  
Children),

and

J.C. (Mother),

*Appellant-Respondent,*

v.

Indiana Department of Child  
Services,

*Appellee-Petitioner.*

January 4, 2024

Court of Appeals Case No.  
23A-JT-1160

Appeal from the LaPorte Circuit  
Court

The Honorable W. Jonathan  
Forker, Magistrate

The Honorable Erika  
Stallworth, Magistrate

Trial Court Cause No.  
46C01-2205-JT-000027  
46C01-2205-JT-000028  
46C01-2205-JT-000029

**Memorandum Decision by Judge Felix**  
Judges Bailey and May concur.

Felix, Judge.

**Statement of the Case**

[1] J.C. (“Mother”) appeals the trial court’s order involuntarily terminating her parent-child relationship with B.C.<sup>1</sup>, A.G., and C.C.<sup>2</sup> (collectively, the “Children”).

[2] We affirm.

**Facts and Procedural History**

[3] On April 2, 2020, Indiana Department of Child Services (“DCS”) Family Case Manager Skylar Bright responded to a request from law enforcement for immediate assistance at Mother’s home. Mother had been displaying manic behavior, and law enforcement was prepared to take her to the emergency room for mental health treatment. Law enforcement requested DCS help because there was no one to care for the Children if Mother was taken away.

[4] Once Bright arrived and introduced herself to Mother as a DCS employee, Mother lunged at Bright and had to be restrained by law enforcement. Law

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<sup>1</sup> B.C. has a different father than A.G. and C.C., so the trial court terminated Mother’s parental rights by two orders. Appellant’s App. Vol. II 121–29; Appellant’s App. Vol. III at 196–205. The fathers’ rights were also terminated. *Id.* The fathers do not participate in this appeal.

<sup>2</sup> The order terminating Mother’s parental rights over C.C. uses the names “C.C.” and “C.G.” to describe the third child. Appellant’s App. Vol. III at 196, 198. The petition for termination of parental rights used the name C.C. *Id.* at 80. Thus, we use C.C. here.

enforcement then took Mother to a local hospital for a mental health evaluation, and she stayed in the hospital for approximately two weeks.

[5] On April 6, 2020, DCS filed petitions alleging each of the Children was a child in need of services (“CHINS”). The following day, the trial court held a detention hearing for the Children. Neither B.C.’s father nor A.G. and C.C.’s father attended the hearing, and the Children were placed in foster care.

[6] A week after Mother was released from the hospital, DCS began conducting supervised visits between Mother and the Children. On May 12, 2020, during a supervised visit between Mother and A.G., Mother made inappropriate statements to A.G. and physically intimidated DCS employees. DCS believed that Mother’s manic and aggressive behavior “posed a safety risk” to the Children, Ex. Vol. I at 39, and the trial court suspended visits.

[7] In July 2020, Mother spent three weeks in the hospital for a mental health episode. On July 31, 2020, the trial court determined that the Children were CHINS and that Mother’s “mental health issues are such that [the Children] cannot be returned due to ongoing safety issues.” Ex. Vol. I at 47, 166.

[8] After Mother showed a commitment to treatment and a period of mental stability, visits with the Children resumed in August 2020. In July 2021, however, the trial court suspended visitation in part because some visits had ended early due to Mother’s “combative and aggressive” behavior. Ex. Vol. I at 74. DCS and visit supervisors determined that visits had gotten “so contentious and volatile that they [were] harmful to [the Children].” *Id.* at 67.

[9] On August 6, 2021, DCS filed termination of parental rights (“TPR”) petitions against Mother. Two months later, the trial court approved a plan where Mother’s visitation could be reinstated with the assistance of Dr. Samelson. Dr. Samelson had been treating Mother for her mental health issues since August 2019, and she continued to see Dr. Samelson consistently, even during and beyond the events of April 2020. Mother showed improvement in these visitations, and on January 31, 2022, DCS filed a motion to dismiss the TPR petitions. That same day, the trial court granted the motion.

[10] Even though the TPR petitions were dismissed, at the time, Mother had pending criminal charges for battery and operating a vehicle while intoxicated (“OWI”). Later, on May 6, 2022, Mother was arrested for a second OWI. As a result, on May 20, 2022, DCS filed a second set of TPR petitions against Mother. While these petitions were pending, Mother was arrested twice more. One arrest was for theft, while the other arrest included charges of resisting law enforcement and motor vehicle theft.

[11] On October 31, 2022, the trial court again suspended Mother’s visitation because, during a supervised visit, Mother became aggressive, and law enforcement had to be called. The trial court set a TPR factfinding hearing which occurred over four days in November 2022 and February 2023. By February 2023, Mother had pled guilty to the battery charge as well as one OWI charge, and her other criminal matters remained pending.

- [12] At the factfinding hearing, Dr. Samelson testified about his treatment of Mother. He testified that, during treatment, he observed symptoms of bipolar disorder, schizoaffective disorder, post-traumatic stress disorder, and borderline personality disorder. These symptoms resulted in “periods of instability in terms of mood and behavior” and “times where [Mother] exhibited irrational or unrealistic beliefs.” Tr. Vol. II at 120. Dr. Samelson testified that, at the time, he would not recommend the Children being returned to Mother’s care.
- [13] Later in the factfinding hearing, therapist Alexis Yovkovich, who had provided treatment to the Children, testified about the impacts of Mother’s behavior on the Children. Specifically, Yovkovich discussed three incidents that the Children witnessed: (1) During a road rage incident, Mother took off her clothes and jumped onto another driver’s car; (2) Mother assaulted the girlfriend of A.G. and C.C.’s father; and (3) Mother was aggressive towards visit supervisors and B.C. during a visit.
- [14] Yovkovich believed incidents like these were linked to the Children’s inability to regulate their emotions as well as B.C.’s suicidal and homicidal ideations. Yovkovich felt keeping the case open would be harmful to the Children, and she testified that the Children would benefit more from staying in foster care with a plan for adoption than being returned to Mother.
- [15] On April 20, 2023, the trial court terminated Mother’s parental rights over the Children. Mother appeals.

## Discussion and Decision

[16] Mother argues there was insufficient evidence to terminate the parent-child relationship. When reviewing a TPR decision, “[w]e affirm a trial court’s termination decision unless it is clearly erroneous; a termination decision is clearly erroneous when the court’s findings of fact do not support its legal conclusions, or when the legal conclusions do not support the ultimate decision.” *In re Ma.H.*, 134 N.E.3d 41, 45 (Ind. 2019) (citing *In re E.M.*, 4 N.E.3d 636, 642 (Ind. 2014)), *cert. denied*. We will not “reweigh the evidence or judge witness credibility, and we consider only the evidence and reasonable inferences that support the court’s judgment.” *Id.* (citing *In re K.E.*, 39 N.E.3d 641, 646 (Ind. 2015)).

[17] To terminate parental rights, DCS must prove by clear and convincing evidence:

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

(i) The child has been removed from the parent for at least six (6) months under a dispositional decree.

(ii) A court has entered a finding under I.C. 31-34-21-5.6 that reasonable efforts for family preservation or reunification are not required, including a description of the court’s finding, the date of the finding, and the manner in which the finding was made.

(iii) The child has been removed from the parent and has been under the supervision of a local office or probation

department for at least fifteen (15) months of the most recent twenty-two (22) months, beginning with the date the child is removed from the home as a result of the child being alleged to be a child in need of services or a delinquent child;

(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); *Ma.H.*, 134 N.E.3d at 46 . Mother challenges only the conclusion that termination is in the best interests of the Children.

[18] The best interests conclusion is “[p]erhaps the most difficult determination” because it “necessarily places the children’s interest in preserving the family into conflict with their need for permanency.” *E.M.*, 4 N.E.3d at 647. This

determination requires the trial court to “subordinate the parents’ interests to those of the children.” *Ma.H.*, 134 N.E.3d at 49 (citing *In re A.D.S.*, 987 N.E.2d 1150, 1158 (Ind. Ct. App. 2013)). “[C]hildren cannot wait indefinitely for their parents to work toward preservation or reunification—and courts ‘need not wait until the child is irreversibly harmed such that the child’s physical, mental and social development is permanently impaired before terminating the parent-child relationship.’” *E.M.*, 4 N.E.3d at 648 (quoting *K.T.K. v. Ind. Dep’t Child Servs.*, 989 N.E.2d 1225, 1235 (Ind. 2013)).

[19] A parent’s pattern of criminal conduct can also be an important factor in determining the children’s best interests. *See K.T.K.*, 989 N.E.2d at 1235–36. Habitual criminal activity and incarceration limit the time a parent can spend with their children, and proximity to crime can negatively affect a child’s psychological and emotional development. *Id.*

[20] Mother does not challenge any of the trial court’s findings, and thus, we accept them as proven. *See R.M. v. Ind. Dep’t Child Servs.*, 203 N.E.3d 559, 564 (citing *Madlem v. Arko*, 592 N.E.2d 686, 687 (Ind. 1992)). The relevant findings are as follows:

Mother has significant mental health issues which she has not been able to stabilize or control . . . She has also had at least three psychiatric hospitalizations during the underlying CHINS case while living in Indiana. Her most recent psychiatric hospitalization was in July 2022.

\* \* \*



Mother has a significant criminal history . . .

After DCS became involved with the family in April 2020, Mother has been charged with [battery, two OWI charges, theft, resisting law enforcement, and motor vehicle theft.]

\* \* \*

The charges have caused arrests and periods of incarceration. New arrests lead to revocation of pretrial release and/or probation. Time spent in incarceration is time Mother cannot spend participating in her court ordered services, treating her mental health, or most importantly, caring for her children. Frequent incarcerations often lead to loss of employment and income, which creates more instability . . . .

Mother's mental health has caused her to repeatedly exhibit volatile and erratic behavior. This behavior has been harmful to the children, and they have been receiving therapy and counseling to deal with the trauma caused by living with a caregiver who suffers from mental health [issues] . . . There is no doubt that this repeated pattern of exposure to Mother's erratic and violent behavior is emotionally harmful for the children. There is also no question that Mother's behavior has not improved since DCS became involved with her family nearly three years ago . . . .

The children need a loving, stable, nurturing home where they can grow up without fear that at any moment their caregiver may have a violent emotional episode. The children need to be able to live without fear that even peaceful events, like time spent at a restaurant or a leisurely drive with their mother, can end up in some violent fashion that leads to Mother being arrested and put in handcuffs. Currently, Mother is not able to provide that for them . . . .

Appellant's App. Vol. II at 127–28; Appellant's App. Vol. III at 202–04. These findings provide sufficient evidence that Mother's unstable mental health and continuing criminal activity harm the Children's chance at permanency as well as their development.

[21] Mother asks us to revisit evidence “the trial court failed to consider.” Appellant's Br. at 27; Appellant's Reply Br. at 4. Mother points to the testimony of three friends who testified on her behalf. This argument is simply a request to “reweigh the evidence,” which we will not do. *Ma.H*, 134 N.E.3d at 45 (citing *K.E.*, 39 N.E.3d at 646). Considering “only the evidence and reasonable inferences that support the court's judgment,” we find that the evidence supports the trial court's conclusion that termination was in the Children's best interests. *Id.*

[22] Affirmed.

Bailey, J., and May, J., concur.