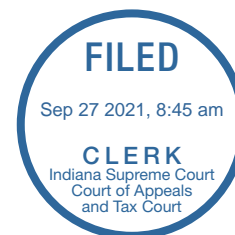


MEMORANDUM DECISION

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

In the Matter of the Termination
of the Parent-Child Relationship
of A.M., Mother, V.B., Father,¹
and A.M., Minor Child,

A.M.,

Appellant-Respondent,

v.

September 27, 2021

Court of Appeals Case No.
21A-JT-682

Appeal from the
Dearborn Circuit Court

The Honorable
James D. Humphrey, Judge

Trial Court Cause No.

¹ Father is not participating in this appeal because he relinquished his parental rights. *Appellant's App. Vol .2* at 30, 55-56. However, because Father was a party of record in the juvenile court, he is a party on appeal. *See* Ind. Appellate Rule 17(A).

Indiana Department of Child
Services,
Appellee-Petitioner.

15C01-2008-JT-7

Kirsch, Judge.

- [1] A.M. (“Mother”) appeals the juvenile court’s termination of her parental rights as to her child, A.M. (“Child”). Mother raises two issues, which we consolidate and restate as whether the juvenile court committed clear error in determining there was a reasonable probability that the reasons for removing Child from Mother’s care would not be remedied.
- [2] We affirm.

Facts and Procedural History

- [3] Child was born on December 27, 2011. *Appellant’s App. Vol. 2* at 21. On August 8, 2018, the Indiana Department of Child Services (“DCS”) received a report that Mother was not caring for Child. *Ex. Vol. I* at 8. When DCS family case manager Jocelyn Davis (“FCM Davis”) assessed the home the next day, she found that it was cluttered with rotting food and garbage, food on the floor, and soiled laundry and that there was toilet water leaking from the bathroom. *Tr. Vol. II* at 173. FCM Davis and Mother created a safety plan that arranged

to have Child stay with neighbors or friends until Mother made the house livable. *Id.* at 174.

[4] The next day, FCM Davis arrived at the home to speak with Mother, and even though Mother had made no progress in cleaning her home, Child was at home with Mother. *Id.* at 176. Police officers were also at the home to serve Mother with an outstanding warrant for a probation violation. *Id.* at 178. Because the officers were going to arrest Mother, and DCS was going to remove Child from the home, the officers allowed Mother to gather some of Child's belongings before Child was temporarily placed in a different home. *Id.* Instead of gathering Child's belongings, Mother climbed out a window and tried to flee from the officers; however, they were able to arrest her and then transported her to the Dearborn County Law Enforcement Center. *Id.* at 178-79; *Appellant's App. Vol. 2* at 79-80. Mother was charged with escape as a Level 5 felony, two counts of neglect of a dependent as Level 6 felonies, and one count of resisting law enforcement as a Class A misdemeanor. *Ex. Vol. I* at 96-97. On August 10, 2018, a no-contact order was issued, which prevented Mother from visiting Child and having contact with potential witnesses; the order was vacated on December 21, 2018. *Id.* at 101-03.

[5] On July 12, 2018, DCS performed an initial assessment to investigate allegations that Mother's home did not have working utilities and that Mother was not properly supervising Child partly because of Mother's suspected drug use. *Tr. Vol. II* at 171. On August 13, 2018, DCS filed a petition, contending that Child was a child in need of services ("CHINS"), claiming, among other

things, that: 1) Mother was not caring for Child; 2) Mother's mental health was not good; 3) the home was unfit and unsanitary; and 4) Child's father was unable to care for Child because he was incarcerated. *Ex. Vol. I* at 5-9. The same day, the juvenile court issued an emergency order removing Child from Mother's care. *Id.* at 11-13. On August 23, 2018, Mother admitted Child was a CHINS, acknowledging that she: 1) was Child's mother; 2) had been charged with neglect of a dependent; and 3) was currently incarcerated and was unable to care for Child. *Id.* at 19-20. On September 10, 2018, the juvenile court held the dispositional hearing and ordered Mother to participate in reunification services, including Substance Use Disorder Assessment, visitation, parenting education, intense outpatient treatment, psychological testing, individual counseling, family therapy, homemaker services, random drug screens, home-based casework, and Home Builders. *Appellant's App. Vol. 2* at 80. In December 2018, Mother pleaded guilty to one count of neglect of a dependent and one count of resisting law enforcement and was placed on probation. *Id.* at 104-06.

[6] On August 15, 2018, about one week before Mother admitted that Child was a CHINS, Mother and Child began working with Family Case Manager Kayla Wynn ("FCM Wynn"), who remained Mother and Child's case manager through the termination proceedings. *Appellant's App. Vol. 2* at 83. Mother's participation "went well, though progress was slow, especially with visitation." *Id.* For a while, Mother had overnight visits with Child, but soon after the COVID-19 pandemic began, Mother began having video visits with Child while Mother was living with a friend. *Id.* at 83-84. At some point, Mother's friend

asked Mother to leave the home, so Mother’s participation in visitation services declined. *Id.* DCS filed a motion for a trial home visit to begin, but due to housing issues, Mother’s failure to keep in contact with DCS, and her “drop in participation,” DCS withdrew the motion. *Id.* at 84.

[7] From November 2018 to August 2019, Robin Gibbs (“Gibbs”) from Bridges Counseling worked with Mother as Mother’s homemaker services and visitation supervisor. *Id.* at 81; *Tr. Vol. II* at 71-72. Gibbs provided supervised visitation beginning in February 2019, i.e., when Mother was released from incarceration. *Id.* at 74. Mother had no-shows for visitation sessions throughout April and July 2019 with no explanation. *Id.* at 76. During the same approximate time period, Mother failed eleven drug screens. *Appellant’s App. Vol. 2* at 84.

[8] The reunification plan included mental health services for Child. Rose Lanning (“Lanning”) with Community Mental Health Center (“CMHC”) worked as Child’s therapist from February 2019 through the termination proceedings. *Id.* at 83. During the counseling sessions, Child did not want to talk about past events, but she seemed excited about her change in placement. *Id.*

[9] Tina Kern (“Kern”) of Lifeline Youth and Family Services supervised visitation for Mother and Child between August 2019 to January 2020. *Tr. Vol. II* at 85. Kern was supposed to meet Mother at the maternal grandfather’s home, but sometimes Mother would be somewhere else. *Appellant’s App. Vol. 2* at 82. Mother was not prepared for some visits, and it took several conversations

between Kern and Mother before Mother came more prepared to visits. *Tr. Vol. II* at 87.

[10] Kern was also supposed to work with Mother on casework between May and June 2020. *Id.* at 88. For instance, they were supposed to work on obtaining housing and employment, daycare issues, budgeting, maintaining cleanliness, and organizing all appointments. *Id.* However, Kern was never able to connect with Mother, and Mother had three no-shows within the referral period, and because of this, the referral was terminated. *Appellant's App. Vol. 2* at 82-83. Mother also cancelled visits in May and June 2019, which Mother blamed on work schedule or illness. *Id.* at 81.

[11] Sherry Serrano² (“Serrano”), who, like Kern, worked for Lifeline Youth and Family Services, was Mother’s family consultant from May 15, 2020, to June 3, 2020. *Tr. Vol. II* at 93. Mother failed to show up or cancelled three visits with Serrano. *Appellant's App. Vol. 2* at 82. Serrano supervised two visits with Mother, on May 20 and May 21, 2020. *Id.* The first visit went well; Mother was prepared with food and activities. *Id.* The second visit began well but ended early because Mother appeared to be under the influence of illegal substances. *Id.* Serrano also scheduled a visit with Mother for May 26, 2020, which did not occur because Mother failed to appear. *Id.* That visit was rescheduled to May 28 but was also cancelled because of Mother’s failure to

² The record refers to both “Serrano” and “Serano.” Because “Serrano” appears more frequently in the record, we will use that spelling.

appear. *Id.* The visit was rescheduled to June 2, 2020, but it was cancelled because Mother was at least two hours away at the time the visit was scheduled to start and lacked transportation to get to the visit. *Id.*

[12] On April 8, 2020, the juvenile court issued an “Order on Emergency Hearing for Visitation,” finding that Mother lacked housing and had not stayed in contact with both DCS and her service providers. *Ex. Vol. I* at 65. On April 13, 2020, the juvenile court issued a case review order, determining that Mother’s whereabouts were unknown; her housing situation remained unknown; she had a new infant child, and DCS had opened an assessment on that child; she had not stayed in contact with DCS or her service providers; she had not recently visited Child; she had missed drug screens; and she had possibly relapsed to using heroin. *Id.* at 68.

[13] On April 17, 2020, Mother tested positive for buprenorphine and fentanyl; on April 26, 2020, she tested positive for amphetamine and methamphetamine; and on May 13, 2020, she tested positive for methamphetamine and fentanyl. *Id.* at 126, 128, 130. On June 18, 2020, Mother again tested positive for fentanyl. *Id.* at 124.

[14] Mother was on probation because of her December 2018 convictions for neglect of dependent and resisting law enforcement. *Id.* at 104-06. She violated that probation when, on June 16, 2020, she was arrested in Kentucky for operating while intoxicated, and soon after that, she was arrested in Indiana for failure to stop after accident. *Appellant’s App. Vol. 2* at 84. These new offenses resulted in

the State seeking the revocation of Mother's probation. *Id.* at 80; *Ex. Vol. I* at 104-06.

[15] On July 15, 2020, the juvenile court held a permanency hearing, and on July 20, 2020, it found, in part, that: 1) many providers dropped services to Mother because she had not engaged in services; 2) Mother was incarcerated in Dearborn County Jail; and 3) Mother tested positive for illegal substances, including THC, methamphetamine, amphetamine, and fentanyl. *Ex. Vol. I* at 88-91. The juvenile court changed Child's permanency plan to adoption. *Id.* at 89-90.

[16] On August 5, 2020, DCS filed a petition to terminate Mother's parental rights. *Appellant's App. Vol. 2* at 17-20. Before holding the first fact-finding hearing on DCS's petition to terminate Mother's parental rights, on October 7, 2020, the juvenile court held a review hearing. *Id.* at 93. Among other things, it found that during her incarceration, Mother was twice placed in "DDU," the jail's disciplinary unit. *Tr. Vol. II* at 48, 131, 153. The juvenile court also found that Child had been rehabilitated and was in the least restrictive, family-like setting. *Ex. Vol. I* at 94. The plan for Child remained adoption. *Id.* at 95.

[17] The juvenile court held fact-finding hearings regarding the termination petition on November 5, 2020, December 10, 2020, and January 14, 2021. *Appellant's App. Vol. 2* at 78. At the time of the fact-finding hearings, Lanning was still counseling Child. *Tr. Vol. II* at 139. Lanning testified that Child had become more accepting of adoption. *Id.* at 138. FCM Wynn testified that Mother had

not remedied the problems that led to the removal of Child and was not likely to remedy those problems in the future. *Id.* at 126-27. FCM Wynn based her opinion on Mother's incarceration and her lack of steady employment and stable housing. *Id.* at 127. FCM Wynn also testified that Mother posed a threat to the well-being of Child because of Mother's criminal acts, substance abuse, and mental health problems. *Id.* at 131-32.

[18] In mid-December of 2020, before the third and final fact-finding hearing, Mother was released from incarceration and was supposed to be placed on house arrest. *Id.* at 193-94. However, Mother failed to notify the probation department of her address and was arrested and returned to jail. *Id.* at 194. Mother was incarcerated throughout the majority of the termination proceedings. *Appellant's App. Vol. 2* at 84.

[19] On March 18, 2021, the juvenile court entered its order terminating Mother's parental rights. *Id.* at 77-88. It found that: 1) Mother's home was filthy, with rotting food and garbage and toilet water leaking from the bathroom; 2) when officers attempted to serve an arrest warrant on Mother for violating the terms of her probation, she fled; 3) Mother pleaded guilty to neglect of dependent and resisting law enforcement and was placed on probation; 4) in June 2020, Mother violated that probation for operating a motor vehicle while intoxicated in Kentucky; 5) because she broke prison rules, Mother was twice placed in the jail disciplinary unit; 6) Mother often failed to show up at meetings with service providers; and 7) Child was excited about a new placement. *Id.* at 79-83. The juvenile court also found:

r. [Mother] had eleven (11) negative drug screens from Forensic Fluids between July 2018 and August 2019. Beginning in April 2020, [Mother] tested positive for illegal substances four (4) times before she was incarcerated around June 2020. On those drug screens, [Mother] tested positive for Fentanyl, Methamphetamine, Amphetamine, and/or Buprenorphine.

s. In June 2020, [Mother] was charged with Failure to Stop After Accident (Class B Misdemeanor) and incarcerated at the Dearborn County Law Enforcement Center.

t. [Mother] was released from incarceration in mid-December 2020 and was supposed to go on in-home incarceration. Mother failed to notify the probation department of her address and was subsequently arrested. Mother was incarcerated throughout the majority of these termination proceedings.

....

Termination is in [Child's] best interests . . . in that:

a) Mother is currently incarcerated and will be for some time. Throughout the underlying CHINS case, the Department made efforts to reunify the child with m [Mother], despite [Mother's] months and months of incarceration for Neglect of a Dependent and her subsequent violations of probation.

b) Mother was ready for a Trial Home Visit in early 2020, before she disappeared and failed to participate in services. In addition, [Mother] began testing positive for illegal substances, including Fentanyl, Methamphetamine, and Amphetamine.

c) Despite significant efforts at reunification, Mother has failed to show that she is stable and capable of providing a stable and

safe home environment for the child, due to her current and ongoing incarceration, positive drug screens, and continued issues with law enforcement. These unsuccessful efforts at reunification have taken place over a period of approximately two (2) years prior to the filing of this termination proceeding.

. . . .

[DCS] has a satisfactory plan for the care and treatment of [Child], which is . . . adoption.

. . . .

[T]here is a reasonable probability that the conditions that resulted in the Child's removal from the home of the biological [parent] will not be remedied, or that continuation of the parent-child relationship poses a threat to the well-being of the Child.

[Termination of the parent-child relationship is in the best interests of [Child]

Id. at 84-85, 87.

[20] Mother now appeals. We will provide additional facts as necessary.

Discussion and Decision

[21] As our Supreme Court has observed, "Decisions to terminate parental rights are among the most difficult our trial courts are called upon to make. They are also among the most fact-sensitive - so we review them with great deference to the trial courts[.]" *E.M. v. Ind. Dep't of Child Servs.*, 4 N.E.3d 636, 640 (Ind. 2014).

While the Fourteenth Amendment to the United States Constitution protects

the traditional right of a parent to establish a home and raise her child and parental rights are of a constitutional dimension, the law allows for the termination of those rights when a parent is unable or unwilling to meet her responsibility as a parent. *Bester v. Lake Cnty. Off. of Fam. & Child.*, 839 N.E.2d 143, 145 (Ind. 2005); *In re T.F.*, 743 N.E.2d 766, 773 (Ind. Ct. App. 2001), *trans. denied*. Parental rights are not absolute and must be subordinated to the child's interests in determining the appropriate disposition of a petition to terminate the parent-child relationship. *In re J.C.*, 994 N.E.2d 278, 283 (Ind. Ct. App. 2013). The purpose of terminating parental rights is not to punish the parent but to protect the child. *In re D.P.*, 994 N.E.2d 1228, 1231 (Ind. Ct. App. 2013). Termination of parental rights is proper where the child's emotional and physical development is threatened. *Id.* The juvenile court need not wait until the child is irreversibly harmed such that his physical, mental, and social development is permanently impaired before terminating the parent-child relationship. *Id.*

[22] When reviewing a termination of parental rights case, we will not reweigh the evidence or judge the credibility of the witnesses. *In re H.L.*, 915 N.E.2d 145, 149 (Ind. Ct. App. 2009). Instead, we consider only the evidence and reasonable inferences most favorable to the judgment. *Id.* Moreover, in deference to the juvenile court's unique position to assess the evidence, we will set aside the juvenile court's judgment terminating a parent-child relationship only if it is clearly erroneous. *Id.* at 148-49. A judgment is clearly erroneous only if the legal conclusions made by the juvenile court are not supported by its

findings of fact, or the conclusions do not support the judgment. *In re S.P.H.*, 806 N.E.2d 874, 879 (Ind. Ct. App. 2004).

[23] Where the juvenile court enters specific findings and conclusions, we normally determine whether the evidence supports the findings and then determine whether the findings support the judgment. *In re B.J.*, 879 N.E.2d 7, 14 (Ind. Ct. App. 2008), *trans. denied*. A finding is clearly erroneous only when the record contains no facts or inferences drawn therefrom that support it. *Id.* If the evidence and inferences support the trial court's decision, we must affirm. *A.D.S. v. Ind. Dep't of Child Servs.*, 987 N.E.2d 1150, 1156 (Ind. Ct. App. 2013), *trans. denied*. Here, however, because Mother does not claim the findings are not supported by the evidence in the record, we need only determine whether the findings support the juvenile court's legal conclusions. *See Madlem v. Arko*, 592 N.E.2d 686, 687 (Ind. 1992) (Unchallenged findings "must be accepted as correct.").

[24] Before an involuntary termination of parental rights may occur, DCS is required to allege and prove:

(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 IC 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). DCS's burden of proof for establishing these allegations is clear and convincing evidence. *H.L.*, 915 N.E.2d at 149.

Moreover, if the juvenile court finds that the allegations in a petition are true, it shall terminate the parent-child relationship. Ind. Code § 31-35-2-8(a).

[25] Here, Mother argues the trial court committed clear error in terminating her parental rights under Indiana Code section 31-35-2-4(b)(2)(B)(i) because DCS failed to prove by clear and convincing evidence that there was a reasonable probability that the conditions that led to Child's removal would not be remedied.³ Mother concedes that DCS presented clear and convincing evidence to satisfy its burden of proof under subsection (b)(2)(A), concerning the period of removal from home and efforts at reunification, and subsection (b)(2)(D), concerning whether there is a satisfactory plan for the care and treatment of Children. Also, we observe that subsection (b)(2)(B) of the termination statute is written in the disjunctive. Thus, DCS was required to establish only one of the two requirements of the section by clear and convincing evidence. *See In re L.S.*, 717 N.E.2d 204, 209 (Ind. Ct. App. 1999), *trans. denied, cert. denied sub nom., In re Swope*, 534 U.S. 1161 (2002). Even though, here, the juvenile court determined that both conditions of this subsection had been satisfied, we confine our analysis to the determination of whether the juvenile court

³ In reality, it is difficult for us to discern the crux of Mother's argument. She characterizes her argument as one challenging the trial court's conclusion that continuation of the child-parent relationship would pose a threat to Child's well-being, but when Mother fleshes out her argument, it appears she is actually arguing that the trial court committed clear error in determining there was a reasonable possibility that the conditions that led to Child's removal would not be remedied. Therefore, we choose to address Mother's arguments in the context of whether the conditions that led to Child's removal would be remedied. We also find that we need not address whether the trial court committed clear error in concluding that termination of Mother's parental rights was in Child's best interest. While Mother recites case law that discusses the best-interest prong, she does not present an actual argument regarding Child's best interests, so she has waived this issue for lack of cogent argument. *See Jarman v. State*, 114 N.E.3d 911, 915 n.2 (Ind. Ct. App. 2018), *trans. denied*; Ind. Appellate Rule 46(A)(8)(a).

committed clear error in concluding that there is a reasonable probability that the conditions that led to the removal of Child would not be remedied.

[26] In determining whether there is a reasonable probability that the conditions that led to a child's removal and continued placement outside the home would not be remedied, we engage in a two-step analysis. *K.T.K. v. Ind. Dep't of Child Servs.*, 989 N.E.2d 1225, 1231 (Ind. 2013). First, we determine what conditions led to the child's placement and retention in foster care, and second, we determine whether there is a reasonable probability that those conditions will not be remedied. *Id.* We consider not only the initial reasons the child was removed but also any basis resulting in the continued placement outside of a parent's 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 at the time of the termination proceeding, considering evidence of changed conditions and balancing a parent's recent improvements against habitual patterns of conduct to determine if there is a substantial probability of future neglect or deprivation. *E.M.*, 4 N.E.3d at 643. The juvenile court has discretion to weigh a parent's prior history more heavily than efforts made only shortly before termination. *Id.* at 642-43. "Requiring trial courts to give due regard to changed conditions does not preclude them from finding that parents' past behavior is the best predictor of their future behavior." *Id.* at 643. Pursuant to this rule, "trial courts have properly considered evidence of a parent's prior criminal history, drug and alcohol abuse, history of neglect, failure to provide support, and lack of adequate housing and employment." *In re D.B.*, 942 N.E.2d 867, 873 (Ind.

Ct. App. 2011). In addition, 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).

[27] Mother's argument, in more specific terms, is that the juvenile court committed clear error in terminating her parental rights because she participated in many services and improved her behavior. For instance, she claims that she completed her substance abuse assessment and participated in individual therapy and parenting education. She claims she was engaged during her visits with Child and that most visits with Child went well. Therefore, she claims the trial court committed clear error in finding that there was a reasonable probability that the conditions that led to Child's removal would not be remedied. However, these arguments amount to impermissible requests to reweigh the evidence as Mother ignores the substantial evidence that she often did not comply with services and that her behavior often did not improve, or even became worse. *See In re H.L.*, 915 N.E.2d at 149. We consider only the evidence and reasonable inferences most favorable to the judgment. *Id.*

[28] Here, the juvenile court removed Child from Mother's care for three reasons. First, Mother could not care for Child because Mother was incarcerated, not only because Mother had violated the terms of her probation but also because she fled from police when they tried to serve her with an arrest warrant, which resulted in new criminal charges, including charges for escape and neglect of a dependent. *Appellant's App. Vol. 2* at 79-80; *Tr. Vol. II* at 178-79. Second,

Mother had failed to provide a healthy, livable environment; her home was cluttered with rotting food and garbage, food on the floor, and soiled laundry and had toilet water leaking from the bathroom. *Tr. Vol. II* at 173; *Appellant's App. Vol. 2* at 79. Third, soon after Child was removed, DCS began to suspect Mother was using illegal substances. *Tr. Vol. II* at 171. Even though Mother's suspected drug use was not initially cited as a reason for removing Child from Mother's care, we may treat this as a factor in Child's removal because Mother's drug use was a factor in Child's "continued placement outside of [Mother's] home." *See In re N.Q.*, 996 N.E.2d at 392.

[29] Second, in considering Mother's fitness at the time of the termination proceeding, we find that Mother made no headway in the areas that led to the removal of Child, i.e., Mother's criminal activity, drug use, and failure to provide a healthy livable home. For instance, when Mother was not incarcerated, she committed crimes, violated the terms of her probation, and engaged in other counterproductive behavior. In December of 2018, Mother pleaded guilty to one count of neglect of a dependent and one count of resisting law enforcement and was placed on probation. *Ex. Vol. I* at 104-06. On June 16, 2020, she was arrested in Kentucky for operating a vehicle while intoxicated, and soon after that, she committed a crime in Indiana, failure to stop after accident, with both new offenses resulting in the filing of a petition to revoke probation. *Id.* at 89, 104-06. In late summer of 2020, when Mother was once again incarcerated, Mother was twice placed in "DDU," the jail's disciplinary unit. *Appellant's App. Vol. 2* at 81; *Tr. Vol. II* at 48, 131, 153.

Finally, in mid-December of 2020, before the third and final fact-finding hearing, Mother was released from incarceration and was supposed to be placed on house arrest; however, Mother failed to notify the probation department of her address and was returned to jail. *Tr. Vol. II* at 193-94. Not surprisingly, Mother was incarcerated throughout the majority of the termination proceedings. *Appellant's App. Vol. 2* at 84.

[30] Similarly, Mother did not reduce her drug use. The April 13, 2020 case review order found that Mother had missed drug screens and had possibly relapsed into heroin use. *Ex. Vol. I* at 68. On April 17, 2020, Mother tested positive for buprenorphine and fentanyl; on April 26, 2020, she tested positive for amphetamine and methamphetamine; and on May 13, 2020, she tested positive for methamphetamine and fentanyl. *Id.* at 126, 128, 130. A May 21, 2020 visit between Mother and Child ended early because Mother appeared to be under the influence of illegal substances. *Appellant's App. Vol. 2* at 82. On June 18, 2020, Mother again tested positive for fentanyl. *Ex. Vol. I* at 124. Between July 2018 and August 2019, Mother failed eleven drug screens. *Appellant's App. Vol. 2* at 84.

[31] Finally, Mother made no progress toward providing a livable home for Child. The one friend who had allowed Mother to live with her eventually asked Mother to leave. *Id.* at 83-84. However, the most significant barrier to Mother being able to provide a livable home to Child was Mother's inability to stay out of jail.

[32] Here, it was reasonable for the juvenile court to conclude that at the time of the termination hearings, Mother had presented no evidence of changed conditions and recent improvements and that Mother was mired in habitual patterns of conduct that suggested a substantial probability of future neglect or deprivation. *See E.M.*, 4 N.E.3d at 643. Mother’s “criminal history, drug . . . abuse, history of neglect, failure to provide support, and lack of adequate housing” made it reasonable for the trial court to predict that Mother’s future behavior would be the same. *See id.* Therefore, the juvenile court did not commit clear error in determining that there was a reasonable possibility that the reasons for Child’s removal would not be remedied. Accordingly, the trial court did not commit clear error in terminating Mother’s parental rights as to Child.

[33] Affirmed.

May, J., and Vaidik, J., concur.