MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

In re: the Termination of the Parent-Child Relationship of:

Add. G., All. G., Cr. G., and Cu. G. (Minor Children),

and

D.G., II (Father),

Appellant-Respondent,

v.

Indiana Department of Child Services,

Appellee-Petitioner

February 14, 2024

Court of Appeals Case No. 23A-JT-2055

Appeal from the Dubois Circuit Court

The Honorable Nathan A. Verkamp, Judge

Trial Court Cause No.
19C01-2303-JT-000058
19C01-2303-JT-000059
19C01-2303-JT-000060
19C01-2303-JT-000061

Memorandum Decision by Judge May
Judges Bailey and Felix concur.

May, Judge.

[1] D.G., II, ("Father") appeals following the trial court's denial of his motion to correct errors. He argues the trial court erred when it involuntarily terminated his parental rights to Add.G., All.G., Cr.G., and Cu.G. (collectively, "Children"). He presents multiple issues for our review, which we consolidate and restate as:

> 1. Whether the trial court abused its discretion when it admitted into evidence:
>
> > 1.1. Department of Child Services ("DCS") Exhibits 3, 4, 25, 31, 44, 55, 61, 92, and 104, which documented the underlying Child in Need of Services ("CHINS") cases;
> >
> > 1.2. Family Case Manager Chelsea Hemmerlein's testimony regarding Father's bond with Children;
> >
> > 1.3. Therapist Kayla Meredith's testimony regarding Father's bond with Children;
> >
> > 1.4. Visitation Supervisor Daisjia Linton's testimony regarding visitation and Father's bond with Children; and
> >
> > 1.5. Court Appointed Special Advocate ("CASA") Debra Schmitt's testimony regarding Father's bond with Children.

2. Whether the trial court erred when it terminated his parental rights to Children because the evidence before the trial court did not support its findings and those findings did not support the trial court's conclusions.

We affirm.

Facts and Procedural History

[2] M.S. ("Mother") gave birth to Add.G. on August 29, 2009; Cr.G. on June 22, 2011; Cu.G. on August 27, 2012; and All.G. on August 4, 2013. Mother and Father were never married, but Father established paternity of Children at some time prior to these CHINS and termination proceedings. Mother had primary custody of Children. Mother and Children lived in Dubois County, and Father lived in neighboring Orange County. Children "[did] not see their Father often[.]" (App. Vol. II at 12.)

[3] On May 19, 2022, DCS received a call from the Huntingburg Police Department. The Police Department reported that its officers responded to a call from Cu.G., who contacted police after he found Mother unresponsive. Cu.G. was the only child at home because the other children were at school. Mother died, and her cause of death was later determined to be a drug overdose.

[4] On the same day, DCS investigated and found Children did not have appropriate supervision and care and did not have enough food in the home. DCS called Father and asked him to take custody of Children. Father told

DCS he had not seen Children in over a month and would not come to get Children because "he had no reason to come to Dubois County." (*Id.*) In addition, DCS noted Father did not have a direct phone number, and Children's relatives were concerned about Father's ability to care for Children because of his drug use. DCS detained Children on an emergency basis and placed them in the Dubois County Comfort Zone.

[5] On May 23, 2022, DCS filed petitions alleging Children were Children in Need of Services ("CHINS") because Mother was deceased, Father refused to take custody of Children, and Father had substance abuse issues and a criminal history. The trial court held an initial hearing the same day. Father appeared and DCS Family Case Manager ("FCM") Hemmerlein attempted to communicate with Father. Father's mother interjected in the conversation and told the FCM that Father "did not need to speak with [FCM Hemmerlein]." (*Id*. at 14.) Father repeated the sentiment and walked away. He never spoke to FCM Hemmerlein and did not provide contact information.

[6] On June 30, 2022, the trial court held a fact-finding hearing on the CHINS petitions. Father attended, but "became agitated and walked out of the courtroom" and did not return to the hearing. (*Id*. at 13.) The same day, the trial court adjudicated Children as CHINS because:

1. [Mother] is deceased.

2. [Children] wish to stay with their maternal grandparents.

3. Neither [DCS] nor the Court can ensure [Children's] safety in the care of [Father].

4. Father will not reciprocate contact with [DCS] or service providers.

5. Father has not seen [Children] since [Mother's] passing in May 2022 and only saw them sporadically prior to that.

6. [Father] did not attend [Mother's] funeral and support [Children] when they needed him the most.

7. Father has refused to complete a drug screen or allow a home visit.

8. Father has a history of substance abuse.

9. [Children] have all expressed concern about their stability and where they will live.

10. Father has not availed himself to any services to show that he is capable of providing stability for [Children] as well as meet their mental health needs.

11. [Children] are in need of ongoing therapeutic services to address the grief and trauma of losing [Mother] as well as their relationship with [Father].

(Ex. Vol. I at 199.) The trial court placed Children with their maternal grandparents, where they have remained throughout these proceedings.

[7] On July 26, 2022, the trial court held a dispositional hearing. On August 16, 2022, the trial court issued its dispositional order. In that order, the trial court required Father to, among other things: communicate with the FCM; allow the FCM to make announced and unannounced visits to his residence; enroll and complete any program recommended by the FCM; maintain safe, stable housing; secure and maintain a legal source of income; not use or sell illegal substances; obey the law; complete a parenting assessment and follow all recommendations; complete a substance abuse assessment and follow all recommendations; complete random drug screens; and visit with Children.

[8] During the course of the CHINS case, Father did not visit with Children, complete drug screens, or participate in any services. In addition, he "picked up warrants" during the proceedings.[1] (Tr. Vol. II at 97.) On January 30, 2023, Father agreed to participate in visitation, but Children refused to attend the visitation. At some point during the CHINS case, the FCM visited Father's residence and observed "there was [sic] not enough beds to -- accommodate [Children]." (*Id*. at 96.)

[9] On March 2, 2023, DCS filed petitions to terminate Father's parental rights to Children. The trial court held a fact-finding hearing on the matter on May 16, 2023. Father's counsel requested a continuance because Father was not present. The trial court denied that request and held the hearing. The trial

[1] The Record before us does not explain why the warrants arose.

court held another fact-finding hearing on May 30, 2023. Father also was not present at that hearing but he was represented by counsel.

[10] On June 15, 2023, the trial court issued orders[2] terminating Father's parental rights to Children. Therein, the trial court found:

> 31. FCM Hemmerlein attempted to speak with Father at the initial hearing. His mother interjected stating that [Father] did not need to speak with her. Father repeated and walked away. He never spoke to FCM Hemmerlein again. He never provided contact information.
>
> 32. While FCM Hemmerlein supervised the case the Father never visited, never screened for illicit substances, and never participated in any service that was put in place to benefit the family.
>
> 33. Mr. Chris Gramm [sic], the Therapist for [Cr.G.] and [Cu.G.], testified that he met with the boys immediately upon removal while placement arrangements were being made to provide support and grief processing. They expressed to him that they did not want to go with Father and seemed at ease when they learned they would be going to stay with maternal grandmother.
>
> * * * * *

[2] The termination orders are virtually identical. Unless indicated otherwise, we will quote to the order concerning Add.G.

35. [Cr.G. and Cu.G.] were both upset that [Father] did not come to [Mother's] funeral to support them.

36. Mr. Gramm went to an address purported to be [Father's] home on two occasions. He spoke with a woman there and advised as to the reason for his visit. He left his business card with instructions for [Father] to call. Father never did.

37. Mr. Gramm never had a working phone number for [Father].

38. When it appeared that visits may finally take place, [Cr.G. and Cu.G.] expressed anxiety and confusion. They appeared [to] not want to meet with [Father].

39. Mr. Gramm observed a strong bond between [Cr.G. and Cu.G.] and their maternal grandmother.

40. Ms. Kaitlyn Meredith, the Therapist for [Add.G.] and [All.G.], testified that she met with [Add.G. and All.G.] immediately upon removal while placement arrangements were being made to provide support and grief processing.

41. [Add.G. and All.G.] were very afraid that they would be placed with [Father]. They expressed to her that they did not want to go with [Father] and seemed at ease when they learned they would be going to stay with maternal grandmother.

42. When [Father] is brought up in conversation with [Add.G.], she expressed her feelings very colorfully. When mention of visits with [Father] were brought up, she stated, "F___ no. I'll get out of the car and run. I don't have a relationship with him and won't."

43. [Add.G.] is angry with [Father], having experienced domestic violence between [Mother] and [Father] and drugs in his home.

44. According to Ms. Meredith, [All.G.] is confused and struggles with the emotions regarding [Father]. She struggles with the fact that [Father] has chosen not to visit with them. When discussing visits with [Father], [All.G.] began crying and simply said, "I don't want to."

* * * * *

49. Daysha Lytton [sic[3]] is the therapist from Ireland Home based Services assigned to facilitate supervised parenting time. She was assigned the case on January 30, 2023. After passing messages back and forth through paternal grandmother, she was finally able to meet with [Father]. A tentative date was set for a visit to occur on March 3rd. The visit was canceled because [Children] did not want to visit. She has never heard from [Father] again.

* * * * *

52. FCM Jonda Bower is the ongoing case worker.

53. She has made numerous attempts to contact [Father] with very limited success. He has not maintained contact with her.

[3] The person referenced here by the trial court is listed in the transcript as "Daisjia Linton." (Tr. Vol. II at 76.) Linton confirmed the spelling of her name at the end of her testimony.

> 54. Father has not completed the first drug screen nor had a drug assessment as ordered in the Dispositional Decree.
>
> 55. FCM has observed [Father's] angry outburst[s] in the courtroom, in the hallways of the courthouse, and in his home. He has not done anything to address his anger issues.

(App. Vol. II at 14-17) (footnote added). Based on its findings of fact, the trial court concluded:

> 1. There is a reasonable probability that the conditions that resulted in [Children's] removal or the reasons for placement outside the home of [Mother and Father] will not be remedied.
>
> > a. The initial reasons for removal were the passing of [Mother] and concerns as to Father's substance use, housing, and instability. DCS was not able to ensure the safety of [Children] as it pertains to placement with Father.
> >
> > b. The totality of the evidence supports a finding that [Children] need[] stability, permanency, and a safe environment which cannot be provided by Father at this time due to Father's lack of progress in services, [Father's] non-compliance with the Dispositional Order, and Father's lack of participation in any services.
> >
> > c. The court additionally notes the following in its determination:
> >
> > > i. Father has failed to engage in and successfully complete any services necessary for him to reunify with [Children].

ii. Father has not visited with [Children] during the life of this case.

i[ii]. A bond between [Father] and [Children] does not exist.

d. There is a reasonable probability that the continuation of the parent-child relationship poses a threat to the well-being of [Children].

e. [Children's] emotional well-being is threatened by the continuation of the parent-child relationship.

f. Father has had no contact or relationship with [Children] since the inception of this case.

g. Father has failed to provide a safe and stable home.

* * * * *

4. Termination of Father's parental rights is in [Children's] best interest[s].

5. There is a satisfactory plan for the care and treatment of [Children], that being adoption.

(*Id*. at 20-1.) On July 13, 2023, Father filed a motion to correct errors and argued the evidence was not sufficient to terminate Father's parental rights to Children. On August 7, 2023, the trial court denied Father's motion to correct errors.

Discussion and Decision

[11] We review a trial court's denial of a motion to correct error for an abuse of discretion, reversing only when the ruling is clearly against the logic and effect of the facts and circumstances before the court or when the trial court has erred as a matter of law. *Perkinson v. Perkinson*, 989 N.E.2d 758, 761 (Ind. 2013). We also consider the standard of review for the underlying ruling. *B.A. v. D.D.*, 189 N.E.3d 611, 614 (Ind. Ct. App. 2022), *trans. denied*. Here, the underlying order is the trial court's order terminating Father's parental rights to Children.

[12] "The Fourteenth Amendment to the United States Constitution protects the traditional right of parents to establish a home and raise their children." *In re A.L.*, 223 N.E.3d 1126, 1137 (Ind. Ct. App. 2023). However, a juvenile court must subordinate the interests of the parents to those of the child when evaluating the circumstances surrounding a termination. *Id.* The termination of parental rights is appropriate when parents are "unable or unwilling to meet their parental responsibilities[.]" *Id*. (quoting *Bester v. Lake Cnty. Ofc. of Family & Children*, 839 N.E.2d 143, 147 (Ind. 2005)). The termination of the parent-child relationship is "an 'extreme measure' and should only be utilized as a 'last resort when all other reasonable efforts to protect the integrity of the natural relationship between parent and child have failed.'" *K.E. v. Ind. Dep't of Child Servs.*, 39 N.E.3d 641, 646 (Ind. 2015) (quoting *Rowlett v. Vanderburgh Cnty. Office of Family & Children*, 841 N.E.2d 615, 623 (Ind. Ct. App. 2006)).

[13] To terminate a parent-child relationship in Indiana, DCS must 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 county office of family and children 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 must provide clear and convincing proof of these allegations at the termination hearing. *In re T.W.,* 135 N.E.3d 607, 612 (Ind. Ct. App. 2019), *trans. denied*. "[I]f the State fails to prove any one of these statutory elements, then it is not entitled to a judgment terminating parental

rights." *Id*. at 1261. Because parents have a constitutionally protected right to establish a home and raise their children, the State "must strictly comply" with the statutory requirements for terminating parental rights. *In re Q.M.*, 974 N.E.2d 1021, 1024 (Ind. Ct. App. 2012) (quoting *Platz v. Elkhart Cnty. Dep't of Pub. Welfare*, 631 N.E.2d 16, 18 (Ind. Ct. App. 1994)).

[14] When we review a trial court's termination of parental rights,

> "we do not reweigh the evidence or judge witness credibility." We consider only the evidence and reasonable inferences that are most favorable to the judgment and give "due regard" to the trial court's unique opportunity to judge the credibility of the witnesses. "We will set aside the trial court's judgment only if it is clearly erroneous."

In re V.A., 51 N.E.3d 1140, 1143 (Ind. 2016) (internal citations omitted).

1. Admission of Evidence

[15] "The admission or exclusion of evidence is a determination entrusted to the discretion of the trial court." *ArcBest Corp. v. Wendel*, 192 N.E.3d 915, 926 (Ind. Ct. App. 2022), *reh'g denied*. We will reverse the trial court's decision regarding evidence only for an abuse of discretion. *Id*. An abuse of discretion occurs when the trial court's decision is clearly against the logic and effect of the facts and circumstances before it. *Id*. Father argues the trial court abused its discretion when it admitted DCS Exhibits 3, 4, 25, 31, 44, 55, 61, 92, and 104 as well as portions of the testimony of FCM Hemmerlein, Therapist Meredith, Visitation Supervisor Linton, and CASA Schmitt.

1.1. DCS Exhibits

[16] Father contends the trial court abused its discretion when it allowed DCS to admit multiple exhibits documenting the CHINS proceedings to support the termination of Father's parental rights to Children. During the fact-finding hearing, Father objected to the admission of all but four of DCS's 122 exhibits. His first objection was to DCS Exhibits 1-29, which he challenged "[t]o the extent that there's hearsay contained in progress reports and CASA reports[.]" (Tr. Vol. II at 12.) Father renewed his objection throughout the admission of 118 exhibits. Father did not object DCS Exhibits 119-122 because they were Chronological Case Summaries ("CCS") for each CHINS matter, though he noted, in reference to Exhibit 119, that he did not think a CCS "[held] bearing other than its existence as to supporting – the DCS's request to terminate." (*Id.* at 16.)

[17] On appeal, Father specifically challenges the admission of DCS Exhibits 3, 4, 25, 31, 44, 55, 61, 92, and 104. Regarding Exhibit 4, Father challenges a statement regarding a past CHINS case involving Father and Children in DCS's Preliminary Inquiry:

> On December 1, 2014, the Department received a report alleging [Father] was a "meth addict." [Father] is also abusing Marijuana and Alcohol daily. [Father] is not fit to care for [Children]. On December 8, 2014, the Department received a report alleging [Children] left with a caregiver not approved to care for [Children] by DCS. The report alleged [Father and Mother] have a history of domestic violence and substance abuse.

(Ex. Vol. I at 27.) Exhibit 3 is DCS's request for authorization to file a CHINS petition as to Add.G. dated May 29, 2022. Exhibit 25 is the CASA's report filed January 18, 2023. Exhibit 31 is DCS's petition asking the trial court to declare All.G. a CHINS dated May 20, 2022. Exhibit 44 is the predispositional report filed July 15, 2022, after the trial court adjudicated Children as CHINS. Exhibit 55 is a permanency report filed February 6, 2023. Exhibit 61 is DCS's request for authorization to file a CHINS petition as to Cu.G. dated May 20, 2022. Exhibit 92 is DCS's request for authorization to file a CHINS petition as to Cr.G. dated May 20, 2022. Exhibit 104 is another copy of the predispositional report filed July 15, 2022.

[18] On appeal, Father does not explain why he believes the trial court abused its discretion when it admitted those exhibits, nor does he assert which parts of those exhibits contained hearsay and/or how DCS did not lay a sufficient foundation for their admission. Instead, Father provides a string of seven citations to the record as "[e]xamples of . . . highly prejudicial third- and fourth-party statements" without explanation of which statements were objectionable. (Father's Br. at 21.) Additionally, Father did not cite any case law to support his contention that the trial court abused its discretion when it admitted these documents. Therefore, Father's argument is waived for noncompliance with Indiana Rule of Appellate Procedure 46(A)(8)(a), which requires an appellant's brief to "contain the contentions of the appellant on the issues presented, supported by cogent reasoning" and citations to authority. *See, e.g., N.C. v. Indiana Dep't of Child Servs.,* 56 N.E.3d 65, 69 (Ind. Ct. App. 2016) ("A party

waives an issue where the party fails to develop a cogent argument or provide adequate citation to authority and portions of the record."), *trans. denied.*

1.2. FCM Hemmerlein's Testimony

[19] FCM Hemmerlein testified regarding her interaction during the initial stages of the CHINS proceedings. FCM Hemmerlein spoke with Children immediately following Mother's death. She testified that Father had little interaction with Children prior to Mother's death and that Father refused to take custody of Children after Mother's death. She also testified that she scheduled visitation with Children, drug screens, and admission into the Fatherhood Engagement program, but Father did not participate in these services. Father argues FCM Hemmerlein could not have accurately testified regarding Father's bond with Children and his participation in services because she was assigned to the case for only fourteen days. Father's argument is an invitation for us to reweigh the evidence, which we cannot do. *See In re D.D.*, 804 N.E.2d 258, 265 (Ind. Ct. App. 2004) (appellate court cannot reweigh evidence or judge the credibility of witnesses), *trans. denied*. FCM Hemmerlein was qualified to testify about the facts she observed during the fourteen days she was assigned to the case.

1.3. Therapist Meredith's Testimony

[20] Kayla Meredith was the therapist for Add.G. and All.G. Father contends a portion of her testimony was impermissible hearsay and based on speculation. During the fact-finding hearing, when DCS asked if Add.G. and All.G. appeared to have a bond with Father, Meredith testified, "I don't see one. . . .

the way [Add.G. and All.G.] describe it is . . . he was never around." (Tr. Vol. II at 61-2.) Further, she testified, Add.G. and All.G. refused to visit Father and expressed they wanted to be adopted by maternal grandparents. Father contends Meredith's testimony regarding what Add.G. and All.G. told her was hearsay and, thus, her conclusion that Father did not have a bond with Add.G. and All.G. was based on speculation.

[21] Regarding Father's argument that Meredith's testimony was impermissible hearsay, Father did not object to this testimony before the trial court and thus his argument is waived. *See Cavens v. Zaberdac*, 849 N.E.2d 526, 533 (Ind. 2006) ("In order to properly preserve an issue on appeal, a party must, at a minimum, 'show that it gave the trial court a bona fide opportunity to pass upon the merits of the claim before seeking an opinion on appeal.'") (quoting *Endres v. Indiana State Police*, 809 N.E.2d 320, 322 (Ind. 2004)). Waiver notwithstanding, Meredith's testimony was cumulative of other testimony and thus any error in its admission was harmless. "In general, the admission of evidence that is merely cumulative of other evidence amounts to harmless error as such admission does not affect a party's substantial rights." *In re Paternity of H.R.M.*, 864 N.E.2d 442, 450-1 (Ind. Ct. App. 2007). Here, Father does not challenge the testimony of CASA Schmitt during which she said, "I haven't seen a bond [with Father]. I haven't seen them with [Father] so I can't speak to that, but from what they've said about [Father], I would not say that there's a bond." (Tr. Vol II at 85.) Therefore, even if Meredith's statements were impermissible

hearsay, they were cumulative of other evidence that Add.G. and All.G. did not have a bond with Father.

[22] We moreover reject Father's argument that Meredith's conclusion that Father did not have a bond with Children was based on speculation. CASA Schmitt testified regarding Father's bond with Children and concluded there was no bond between them. Additionally, DCS presented other unchallenged evidence that Father did not retrieve Children after Mother's death, he made no effort to participate in services, and he did not visit with Children. In light of this evidence, we conclude Meredith's statements regarding the lack of bond between Father and Children were not based on speculation.

1.4. Visitation Supervisor Linton's Testimony

[23] Linton was the visitation supervisor who attempted to facilitate visitation between Father and Children. She testified regarding her interactions with Father to set up visitation with Children. Father argues[4] that Linton impermissibly "made critical observations based upon 'hearsay', third-party information, a predisposition to exclude reunification giving the Children's

[4] Father also argues another portion of Linton's testimony is impermissible hearsay. During the fact-finding hearing, Linton began to testify regarding what paternal grandmother told her. Father objected, and DCS counsel withdrew the question. Father argues that by withdrawing the question, DCS "implicitly conced[ed] that this type of testimony is inadmissible; it does not help build the required foundation." (Father's Br. at 24.) However, Father cites no case law to support this argument, nor does he contend the trial court abused its discretion in any way. Therefore, the argument is waived. *See* Ind. App. R. 46(A)(8)(a) (argument must "contain the contentions of the appellant on the issues presented, supported by cogent reasoning" and must be supported by citations to authority, statutes, and the appellate record); *and see In re Involuntary Termination of Parent-Child Relationship of B.R.*, 875 N.E.2d 369, 373 (Ind. Ct. App. 2007) (failure to make argument regarding erroneous findings or conclusions waives that issue from our review), *trans. denied.*

wishes absolute priority, and on little, or no, personal observations[.]" (Father's Br. at 25.) Father specifically takes issue with the following testimony:

> [Father]: Ma'am, as far as answering in the affirmative that if [Father] would have reached out you would've worked with him, you said, yes, correct?
>
> [Linton]: Correct.
>
> [Father]: I get the answer to that hypothetical question. If confronted with the same information as before however, that [Children] were not wanting to visit was there any point in him attempting to make those attempts to reschedule?
>
> [Linton]: Yes, there is a point.
>
> [Father]: Okay. If confronted with the same information, however that [Children] didn't want to visit, . . . how would you get through that barrier?
>
> [Linton]: Well, if [Children] weren't opening – open to coming, there's not much more that we could do passed [sic] that. We weren't gonna force [Children] to attend the visits.
>
> [Father]: So their wishes superseded everyone else?
>
> [Linton]: Correct.

(Tr. Vol. II at 76-7.)

[24] Father did not object to Linton's testimony before the trial court and thus his argument is waived. *See Cavens*, 849 N.E.2d at 533 ("In order to properly

preserve an issue on appeal, a party must, at a minimum, 'show that it gave the trial court a bona fide opportunity to pass upon the merits of the claim before seeking an opinion on appeal.'") (quoting *Endres*, 809 N.E.2d at 322). Waiver notwithstanding, Linton's testimony was cumulative of other testimony and thus any error in its admission was harmless. "In general, the admission of evidence that is merely cumulative of other evidence amounts to harmless error as such admission does not affect a party's substantial rights." *In re Paternity of H.R.M.*, 864 N.E.2d at 450-1.

[25] Christopher Graham, the therapist assigned to work with Cr.G. and Cu.G., testified, without objection by Father, that Cr.G. told him that if a case worker came to take him to visitation with Father "he would hide in the house and if they tried to make him he would run away." (Tr. Vol. II at 43.) Meredith testified, without objection by Father that, when told Children would be visiting with Father, Add.G. said, "F no." (*Id*. at 59.) Meredith also testified, without objection from Father, Add.G. and All.G. were "visibly distraught" when the issue of visitation with Father was brought up. (*Id*. at 65.) Further, DCS presented other unchallenged evidence that Father refused to retrieve Children after Mother's death, he refused to participate in services, and refused to communicate with most DCS staff and associated service providers. Therefore, even if Linton's testimony contained impermissible hearsay, it was cumulative of other evidence that Children did not want to visit with Father and Linton therefore was unable to facilitate visitation. *See*, *e.g.*, *Pelissier v. State*, 122 N.E.3d 983, 988 (Ind. Ct. App. 2019) (any error in the admission of videotaped

statements was harmless error because the evidence was cumulative of other properly-admitted evidence), *trans. denied*.

1.5. CASA Schmitt's Testimony

[26] CASA Schmitt testified, in part, regarding Children's bond with Father and their lack of willingness to attend visitation with Father. Father contends[5] CASA Schmitt saw "virtually nothing" to support her testimony that Children were not bonded with Father. (Father's Br. at 27.) He asserts CASA Schmitt's one interaction with Father, when she made an unannounced visit to his trailer, "may be described as a providentially inspired accident!" (*Id.*) However, as noted above, CASA Schmitt testified, without objection from Father, "I haven't seen a bond [with Father]. I haven't seen them with [Father] so I can't speak to that, but from what they've said about [Father], I would not say that there's a bond." (Tr. Vol II at 85.) Additionally, other properly-admitted evidence indicated Father refused to retrieve Children after Mother's death, did not come to Mother's funeral as support for Children, did not visit or otherwise communicate with Children, and did not participate in services designed to

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[5] Father also argues another portion of Schmitt's testimony is impermissible hearsay. During the fact-finding hearing, the trial court sustained Father's objection to Schmitt's testimony in which she told the trial court what Cr.G. told her about visitation with Father. Thereafter, DCS attempted to ask a similar question and Father objected. The trial court overruled that objection and DCS asked the question again. Father objected and DCS indicated it would "move on" from that line of questioning. (Tr. Vol. II at 85.) Father cites no case law to support this argument, nor does he contend the trial court abused its discretion in any way regarding the testimony. Therefore, the argument is waived. *See* Ind. App. R. 46(A)(8)(a) (argument must "contain the contentions of the appellant on the issues presented, supported by cogent reasoning" and that argument must be supported by citations to authority, statutes, and the appellate record); *and see In re Involuntary Termination of Parent-Child Relationship of B.R.*, 875 N.E.2d at 73 (failure to make argument regarding erroneous findings or conclusions waives that issue from our review).

promote his reunification with Children. Father's argument is an invitation for us to judge CASA Schmitt's credibility as a witness and reweigh the evidence before the trial court, which we cannot do. *See In re D.D.*, 804 N.E.2d at 265 (appellate court cannot reweigh evidence or judge the credibility of witnesses).[6]

2. Findings and Conclusions of Law

[27] When, as here, a judgment contains specific findings of fact and conclusions thereon, we apply a two-tiered standard of review. *In re Adoption of T.L.*, 4 NE.3d 658, 662 (Ind. 2014). First, we must determine whether the evidence supports the findings and then whether the findings support the trial court's judgment. *Id*. A finding is clearly erroneous when the record lacks evidence or reasonable inferences from the evidence to support it. *Steele-Giri v. Steele*, 51 NE.3d 119, 125 (Ind. 2016). When reviewing the trial court's findings and conclusions we "shall not set aside the findings or judgment unless clearly erroneous and due regard shall be given to the opportunity of the trial judge to judge the credibility of witnesses." Ind. T.R. 52(A). "We accept unchallenged

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[6] Father also argues DCS violated his due process rights when it "based its case on inadmissible evidence[.]" (Father's Br. at 5.) Father did not make this argument before the trial court and thus it is waived. *See Cavens*, 849 N.E.2d at 533 ("In order to properly preserve an issue on appeal, a party must, at a minimum, 'show that it gave the trial court a bona fide opportunity to pass upon the merits of the claim before seeking an opinion on appeal.'") (quoting *Endres*, 809 N.E.2d at 322). However, waiver can be avoided if a party argues fundamental error. *See*, *e.g.*, *Kelly v. State*, 122 N.E.3d 803, 805 (Ind. 2019) ("Fundamental error is an exception to the general rule that a party's failure to object at trial results in a waiver of the issue on appeal."). Father did not argue fundamental error on appeal. Nonetheless, we note we have addressed his arguments regarding some of the evidence and testimony presented to the trial court and have found no abuse of discretion. Therefore, we conclude Father was not denied due process. *See*, *e.g.*, *Matter of Eq.W.*, 124 N.E.3d 1201, 1215 (Ind. 2019) (fundamental error did not exist when trial court did not err).

findings as true." *Henderson v. Henderson*, 139 N.E.3d 227, 232 (Ind. Ct. App. 2019).

[28] Father argues that the trial court's findings and conclusions are erroneous and then lists five findings and ten conclusions. Father makes no further argument indicating why the findings are not supported by the evidence and/or the findings do not support the conclusions. Thus, his argument is waived for failure to make a cogent argument. *See* Ind. App. R. 46(A)(8)(a) (argument must "contain the contentions of the appellant on the issues presented, supported by cogent reasoning" and that argument must be supported by citations to authority, statutes, and the appellate record); *and see In re Involuntary Termination of Parent-Child Relationship of B.R.*, 875 N.E.2d 369, 373 (Ind. Ct. App. 2007) (failure to make argument regarding erroneous findings or conclusions waives that issue from our review), *trans. denied*.

Conclusion

[29] Father has waived his argument regarding the admissibility of DCS Exhibits 3, 4, 25, 31, 44, 55, 61, 92, and 104 because he did not make a cogent argument and did not support his argument with citations to relevant precedent. Additionally, Father has not demonstrated that the trial court abused its discretion when it admitted the testimony of FCM Hemmerlein, therapist Meredith, visitation supervisor Linton, and CASA Schmitt. Finally, Father waived his challenge to certain trial court findings and conclusions because he failed to make a cogent argument. Accordingly, we affirm.

[30] Affirmed.

Bailey, J., and Felix, J., concur.