

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

In re the Termination of the
Parent-Child Relationship of
D.F. (Minor Child) and R.F.
(Mother)

R.F. (Mother),

Appellant-Respondent,

v.

Indiana Department of Child
Services,

Appellee-Petitioner

September 7, 2023

Court of Appeals Case No.
23A-JT-884

Appeal from the
Bartholomew Circuit Court

The Honorable
Kelly Benjamin, Judge

The Honorable
Brittney Newland, Magistrate

Trial Court Cause No.
03C01-2212-JT-5807

Memorandum Decision by Judge Vaidik
Judges Mathias and Pyle concur.

Vaidik, Judge.

Case Summary

[1] R.F. (“Mother”) appeals the termination of her parental rights. We affirm.

Facts and Procedural History

[2] D.F. (“Child”), born in 2012, is the biological child of Mother and Z.G. (“Father”). Father’s rights were also terminated, but he does not participate in this appeal. In 2013, Mother began dating R.B., and they lived together with Child in Columbus. In December 2020, R.B. was charged with a variety of domestic-violence-related felonies against Mother. A no-contact order was issued barring contact between R.B. and Mother and R.B. and Child.

[3] On October 22, 2021, the Department of Child Services (DCS) received a report that R.B., Mother, and Child were seen together in violation of the no-contact order. Family Case Manager (FCM) Melissa Scott conducted an assessment and interviewed Child, then nine years old, who reported domestic violence in the home and that she had not been to school in several years. FCM Scott also tried to investigate the family’s home, but it was in such poor condition that she could not safely enter. She did observe evidence of “hoarding,” with trash and decaying food stacked all over the house causing pests and odor. Tr. Vol. II p. 16.

- [4] Child was removed and placed in foster care, where she has since remained. A few days later, DCS filed a petition alleging Child was in need of services (CHINS). In December 2021, Mother admitted Child was a CHINS. In the dispositional order, Mother was ordered to, among other things, maintain contact with DCS, complete a parenting assessment and any recommended treatment, complete a mental-health assessment and any recommended treatment, attend supervised visitation, refrain from contact with R.B., and maintain safe and stable housing. DCS also recommended that Mother participate in home-based therapy, individual therapy, and domestic-violence classes.
- [5] For over a year, Mother failed to comply with the case plan. She did not maintain consistent contact with DCS or engage in any services. She attended only three supervised visits with Child. Despite the no-contact order, Mother continued to reside with R.B., who would not allow DCS to investigate the home's condition.
- [6] In December 2022, DCS petitioned to terminate Mother's parental rights. A termination hearing was held in January 2023. Paige Huffman, Child's therapist, testified that Child does not feel safe in Mother's care due to her unwillingness to protect herself and Child from R.B. and that the two do not have a strong bond. In contrast, Huffman testified that Child's foster home is a positive and safe environment. Annette Fields, Child's Court Appointed Special Advocate (CASA), testified that termination is in Child's best interests, noting Mother "hasn't completed anything that's been requested" and that Child's

foster mother, who wishes to adopt her, provides a safe and stable environment. *Id.* at 61. FCM Jessica Pittman also stated termination is in Child’s best interests, noting that Mother has made “zero” progress toward reunification and that Child needs permanency. *Id.* at 49. Mother testified and denied that R.B. was violent toward her and Child and stated she does not have safety concerns with Child living in the home with R.B.

[7] Following the hearing, the trial court issued an order terminating Mother’s parental rights to Child.

[8] Mother now appeals.

Discussion and Decision

[9] Mother argues the evidence presented at the hearing does not prove the statutory requirements for termination. When reviewing the termination of parental rights, we do not reweigh the evidence or judge witness credibility. *In re K.T.K.*, 989 N.E.2d 1225, 1229 (Ind. 2013). Rather, we consider only the evidence and reasonable inferences most favorable to the judgment of the trial court. *Id.* When a trial court has entered findings of fact and conclusions of law, we will not set aside the court’s findings or judgment unless clearly erroneous. *Id.* To determine whether a judgment terminating parental rights is clearly erroneous, we review whether the evidence supports the trial court’s findings and whether the findings support the judgment. *In re V.A.*, 51 N.E.3d 1140, 1143 (Ind. 2016).

[10] A petition to terminate parental rights must allege, among other things:

(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. *In re K.T.K.*, 989 N.E.2d at 1231. If the court finds the allegations in a petition are true, the court “shall terminate the parent-child relationship.” I.C. § 31-35-2-8(a).

I. Conditions Remedied

[11] Mother first challenges the trial court's conclusion that there is a reasonable probability the conditions resulting in the Child's removal and continued placement outside the home will not be remedied. In determining whether the

conditions resulting in a child's removal will not be remedied, the trial court engages in a two-step analysis. First, the trial court must determine what conditions led to the child's placement and retention outside the home. *In re K.T.K.*, 989 N.E.2d at 1231. Second, the trial court must determine whether there is a reasonable probability those conditions will not be remedied. *Id.* The "trial court must consider a parent's habitual pattern of conduct to determine whether there is a substantial probability of future neglect or deprivation." *Id.* (quotation omitted).

[12] Child was removed from the home due to educational neglect, poor housing conditions, and domestic violence between Mother and R.B. And throughout the CHINS case, Mother has shown no improvement in these conditions. She refused to participate in DCS services, including domestic-violence classes, mental-health treatment, and home-based services. Nor did she attend supervised visitation with Child or maintain consistent contact with DCS. Mother failed to obtain housing away from R.B., and R.B. would not allow DCS to investigate the home's condition. And Mother continued to reside with R.B. throughout the case, despite the no-contact order, and never acknowledged an issue with his behavior or violence in the household. Ultimately, Mother is no closer to providing Child with a safe and stable home than she was at the beginning of the CHINS case. Mother acknowledges all of this but argues she should be given more time to complete services. But she has been given over a year, and during that time she has put forth no effort to even start, let alone complete, these services.

[13] The trial court did not err when it concluded there is a reasonable probability the conditions leading to Child’s removal will not be remedied.¹

II. Best Interests

[14] Mother also challenges the trial court’s conclusion that termination is in Child’s best interests. In determining the best interests of a child, the trial court must look at the totality of the evidence. *In re A.B.*, 887 N.E.2d 158, 167-68 (Ind. Ct. App. 2008). The trial court must subordinate the interests of the parents to those of the child. *Id.* at 168. Termination of a parent-child relationship is proper where the child’s emotional and physical development is threatened. *In re K.T.K.*, 989 N.E.2d at 1235. A trial court need not wait until a child is irreversibly harmed such that their physical, mental, or social development is permanently impaired before terminating the parent-child relationship. *Id.* Additionally, a child’s need for permanency is a “central consideration” in determining the best interests of a child. *Id.* We have held that the recommendation by both the case manager and child advocate to terminate parental rights, in addition to evidence the conditions resulting in removal will

¹ Mother also challenges the trial court’s conclusion that there is a reasonable probability the continuation of the parent-child relationship poses a threat to Child’s well-being. But because we affirm the trial court’s conclusion there is a reasonable probability the conditions resulting in Child’s removal will not be remedied, we need not address this alternate conclusion. *See In re A.G.*, 45 N.E.3d 471, 478 (Ind. Ct. App. 2015) (explaining that Indiana Code section 31-35-2-4(b)(2)(B) is written in the disjunctive and requires trial courts to find that only one of the three requirements of subsection (B) has been established by clear and convincing evidence), *trans. denied.*

not be remedied, is sufficient to show by clear and convincing evidence that termination is in the child's best interests. *In re L.S.*, 987 N.E.2d at 1158.

[15] Here, both FCM Pittman and CASA Fields recommended that Mother's parental rights be terminated. And as noted above, Mother has not shown an ability to provide a safe and stable environment for Child. While this evidence alone is sufficient, permanency is also a central consideration. Child, now eleven, has been removed from Mother's care for almost two years. During that time, Mother attended only three visits, and the two do not have a strong bond. In contrast, Child is now thriving in her foster mother's care, and her foster mother wishes to adopt her.

[16] For these reasons, we conclude that the totality of the evidence supports the trial court's determination that termination of Mother's parental rights is in Child's best interests.

[17] Affirmed.

Mathias, J., and Pyle, J., concur.