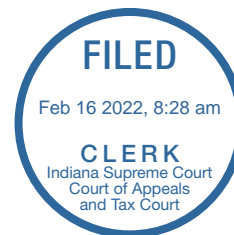


## MEMORANDUM DECISION

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 re the Termination of the  
Parent-Child Relationship of:  
C.E. and L.E. (Minor Children),  
and  
D.C. (Mother)  
*Appellant-Respondent,*

v.

Indiana Department of Child  
Services,  
*Appellee-Petitioner.*

February 16, 2022

Court of Appeals Case No.  
21A-JT-1999

Appeal from the Wabash Circuit  
Court

The Honorable Robert R.  
McCallen III, Judge

Trial Court Cause No.  
85C01-2104-JT-8  
85C01-2104-JT-9

**Bailey, Judge.**

## Case Summary

- [1] D.C. (“Mother”) appeals the order terminating her parental rights to C.E. and L.E. (collectively, the “Children”), challenging the sufficiency of the evidence.<sup>1</sup>
- [2] We affirm.

## Facts and Procedural History

- [3] In April 2019, the Wabash County Department of Child Services (“DCS”) filed petitions alleging that the Children were Children in Need of Services (“CHINS”).<sup>2</sup> The CHINS petitions focused on the circumstances of Mother’s arrest for Possession of Methamphetamine and Possession of Paraphernalia in March 2019, when C.E.—the oldest, who at that time was eleven years old—was “observed attempting to hide paraphernalia by sitting on it.” App. Vol. 2 at 127. The home “was observed to be in disarray with trash, clothes, shoes and food all around[.]” *Id.* The Children were removed from the home and placed in relative care. Before long, the court ordered placement with DCS.
- [4] Mother admitted to the allegations in the CHINS petitions, and the Children were adjudicated CHINS. The trial court issued a dispositional order, requiring

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<sup>1</sup> The trial court also terminated the parental rights of S.E., who does not actively participate on appeal.

<sup>2</sup> Because documents for C.E. and L.E. are substantially the same, we generally cite only to those for C.E.

that—among other things—Mother obey the law, refrain from using illegal substances, submit to random drug screens, and complete a substance abuse assessment, ultimately following all recommendations from the assessment.

[5] In April 2021, DCS petitioned to terminate Mother’s parental rights. At an August 2021 fact-finding hearing, DCS presented evidence that, although Mother had participated in many services offered to her, Mother continued to struggle with an addiction to methamphetamine, which Mother was candid about. Generally, Mother had instability in her housing and an off-and-on romantic relationship with a man who provided financial support. Mother’s on-and-off boyfriend was violent at times, hitting her and at one point choking her. There was also evidence that the boyfriend had used methamphetamine in front of Mother and would offer Mother the substance, which Mother found difficult to resist. About one month before the fact-finding hearing, DCS offered to help Mother get out of the relationship by arranging for her to go to a shelter for battered women. Mother did not accept the offer, telling DCS she “was going to work on it.” Tr. Vol. 2 at 55. Mother explained that part of her hesitation was because living at the shelter would make it harder to “use.” *Id.* at 80. Mother acknowledged that a relationship with her abuser would not be safe. Mother explained that she feels “obligated a little bit to him,” *id.* at 54, and that she still “care[s] about him” while being “somewhat scared of him and what he’ll do,” *id.* at 72. Mother said that she had “walked away” in the past, but her abuser “has a way of always . . . talking [her] back in.” *Id.*

- [6] As of the fact-finding hearing, Mother faced pending criminal charges for Possession of Methamphetamine and Possession of Paraphernalia, filed in 2020. Her prior charges—filed around the time the Children were removed from Mother’s care—resulted in a conviction for Level 6 felony Possession of Methamphetamine. Mother also had a criminal conviction for Conversion.
- [7] Following the hearing, the trial court issued written findings and conclusions, ultimately ordering the termination of Mother’s parental rights. According to the trial court, it was “clear” that Mother “loves her children[.]” App. Vol. 2 at 47. The trial court said that if love was “the sole criteria for the [c]ourt to consider in these proceedings, there would be no basis to terminate [Mother’s] rights to her children. However, . . . the inquiry does not end there.” *Id.* The court noted that “[i]n addition to having an addiction to methamphetamine and resulting legal problems, [Mother] has been in an abusive relationship” and seems to be “under the spell of her abuser.” *Id.* As to Mother’s struggles with substance abuse, the court noted that Mother “clearly fails to appreciate how her addiction to methamphetamine affects every aspect of her life, from being a responsible parent to having a stable job and housing[.]” *Id.* at 48. The court remarked that, “[b]ecause of that” lack of insight about the addiction, “the circumstances that led to the children’s removal will never be remedied.” *Id.*
- [8] In support of the order terminating Mother’s parental rights, the trial court found that (1) the Children had been removed from parental care for at least six months under CHINS dispositional decrees; (2) there is a reasonable probability that the conditions that resulted in the Children’s removal will not be remedied;

(3) termination of the parent-child relationship is in the Children’s best interests with continuation of the parent-child relationship being detrimental to the Children’s wellbeing; and (4) DCS has a satisfactory plan for the Children.

[9] Mother now appeals.

## Discussion and Decision

[10] When ordering the termination of parental rights, the trial court must enter findings of fact. Ind. Code § 31-35-2-8(c). Under Trial Rule 52(A), we “shall not set aside the findings or judgment unless clearly erroneous” and must give “due regard . . . to the opportunity of the trial court to judge the credibility of the witnesses.” A finding is clearly erroneous if the record contains no evidence to support the finding. *Town of Brownsburg v. Fight Against Brownsburg Annexation*, 124 N.E.3d 597, 601 (Ind. 2019). And a judgment is clearly erroneous “if the court applied the ‘wrong legal standard to properly found facts.’” *Id.* (quoting *Town of Fortville v. Certain Fortville Annexation Territory Landowners*, 51 N.E.3d 1195, 1198 (Ind. 2016)). In conducting our review, we do not reweigh the evidence or reassess the credibility of the witnesses, and we consider only the evidence and the reasonable inferences that support the judgment. *In re N.G.*, 51 N.E.3d 1167, 1170 (Ind. 2016). If the evidence supports the findings and the findings support the judgment, we affirm. *See id.*

[11] In a termination proceeding, “[a] finding . . . must be based upon clear and convincing evidence.” I.C. § 31-37-14-2. To terminate, the court must find

(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.**

I.C. § 31-35-2-4(b)(2) (emphases added).

[12] On appeal, Mother states that she is not challenging the sufficiency of the evidence supporting the trial court's finding under subsection (A), which pertains to how long the Children have been removed. Rather, Mother focuses on whether there is sufficient evidence supporting the trial court's findings under subsections (B), (C), and (D). We address each subsection in turn.

### **(B): Unremedied Conditions**

[13] Under subsection (B), the court found a reasonable probability of unremedied conditions that had prompted the Children's removal from the home. As to this subsection, a trial court "must judge a parent's fitness 'as of the time of the termination proceeding, taking into consideration evidence of changed conditions.'" *In re E.M.*, 4 N.E.3d 636, 643 (Ind. 2014) (quoting *Bester v. Lake Cnty. Off. of Fam. & Child.*, 839 N.E.2d 143, 152 (Ind. 2005)). In doing so, the trial court must balance a parent's recent improvements against the parent's habitual patterns of conduct "to determine whether there is a substantial probability of future neglect or deprivation." *Id.* (quoting *K.T.K. v. Ind. Dep't of Child Servs.*, 989 N.E.2d 1225, 1231 (Ind. 2013)). "We entrust that delicate balance to the trial court, which has discretion to weigh a parent's prior history more heavily than efforts made only shortly before termination." *Id.*

[14] Here, the Children were removed from Mother’s care when Mother was arrested on charges related to methamphetamine. There is evidence that Mother remains addicted to methamphetamine and recently did not take advantage of an opportunity to move to a shelter—which could have helped protect her from an abuser—in part because it would have been harder to use methamphetamine. Although Mother directs us to favorable evidence, her arguments amount to requests to reweigh the evidence. Ultimately, there is sufficient evidence supporting the trial court’s finding under subsection (B)(i) as to the probability of unremedied conditions. And because the statute requires only one finding under this subsection, we will turn to subsection (C).

### (C): Best Interests

[15] As to subsection (C), the court must consider the totality of the evidence when analyzing the best interests of a child. *Matter of Ma.H.*, 134 N.E.3d 41, 49 (Ind. 2019), *cert. denied*. When deciding best interests, the court makes “[p]erhaps the most difficult” decision in the matter because the question of best interests “necessarily places the [child’s] interest in preserving the family into conflict with [the child’s] need for permanency.” *In re E.M.*, 4 N.E.3d at 647. A child’s “paramount need for permanency” must be a central consideration for the trial court. *Id.* at 647-48. That is because “children cannot wait indefinitely for their parents to work toward preservation or reunification[.]” *Id.* Still, “a child’s need for immediate permanency is not reason enough to terminate parental rights where the parent has an established relationship with his/her child” and



“has taken positive steps . . . toward[] reunification,” *In re V.A.*, 51 N.E.3d 1140, 1152 (Ind. 2016), such as through compliance with the case plan, *see id.*

[16] As the court recognized, the evidence suggests that Mother loves the Children. Yet, as the court also recognized, a parent’s love is not the only germane matter in a termination proceeding. The trial court specifically found—and the evidence supports—that Mother fails to appreciate the role her addiction plays in her ability to adequately parent the Children. For example, the evidence shows that, as of the fact-finding hearing, Mother faced methamphetamine-related charges, and this was not the first time she faced drug-related charges.

[17] Turning to the Children, DCS presented evidence of positive changes since their placement in foster care: “They’ve gotten their head right around education, and their classes, and they thrive on getting the good grades and excelling. They’re just adventurous. They want to try things. They want to learn things. They’ve gone from just existing to thriving in the house.” Tr. Vol. 2 at 170. Moreover, the court-appointed special advocate (“CASA”) was concerned about the prospect of the Children returning to Mother’s care, citing Mother’s “drug use” and the potential for “an unsafe environment for them” due to Mother’s on-and-off relationship. *Id.* at 173. The CASA stated that adoption was in the Children’s best interests. In support, the CASA noted that the Children had been “CHINS . . . for over two years now” and, in the CASA’s opinion, there had “not really been a lot of progress made.” *Id.* at 176.

[18] As to a lack of progress, a family case manager (“FCM”) testified that Mother “continues to use methamphetamine[.]” *Id.* at 186. The FCM was also concerned that Mother would go back to her abuser, who was “physically, mentally, [and] emotionally abusive” toward Mother: “He’s a master manipulator. He leaves bruises on her. He strangles her. Controls everything she does.” *Id.* The FCM said that her “professional opinion as a DCS caseworker” is that termination is in the Children’s best interests. *Id.* at 190.

[19] On appeal, Mother states that she “has to concede that numerous DCS[] witnesses testified that they believed it to be in the Children’s best interest for parental rights to be terminated.” Br. of Appellant at 22. At the same time, Mother maintains that “despite her past criminal history; drug history; and choice of significant other, Mother has the means to provide adequate drug-free housing, stability, safety and supervision for the Children.” *Id.* Mother ultimately asserts that, “despite the testimony in favor of termination,” it is “not in the Children’s best interest to terminate [the] parent-child relationship.” *Id.*

[20] We must again reject Mother’s request to reweigh the evidence. All in all, the record contains sufficient evidence supporting the trial court’s finding that terminating the parent-child relationship is in the best interests of the Children.

### (D): Satisfactory Plan

[21] As to this last subsection, the plan for a child “need not be detailed, so long as it offers a general sense of the direction in which [a] child will be going after the parent-child relationship is terminated.” *In re D.D.*, 804 N.E.2d 258, 268 (Ind.

Ct. App. 2004), *trans. denied*. It is also well-settled that adoption is a satisfactory plan. *E.g., In re B.M.*, 913 N.E.2d 1283, 1287 (Ind. Ct. App. 2009).

[22] Here, the court found that there is a satisfactory plan for the Children, noting that the plan is adoption. As to record support, although Mother concedes that “[n]umerous DCS witnesses testified that the plan for the [C]hildren was adoption,” Br. of Appellant at 22, Mother argues for maintaining the status quo and asserts that doing so would be a “very satisfactory plan,” *id.* at 23.

[23] Because there is evidence of a plan of adoption—a satisfactory plan—there is sufficient evidence supporting the trial court’s finding under subsection (D).

## Conclusion

[24] Sufficient evidence supports the order terminating Mother’s parental rights.

[25] Affirmed.

Mathias, J., and Altice, J., concur.