MEMORANDUM DECISION

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IN THE
COURT OF APPEALS OF INDIANA

In the Termination of the Parent-Child Relationship of K.B. and Ju.B.[1] (Minor Children), and K.S. (Mother) and B.C. (Father),

Appellants-Respondents,

v.

June 28, 2022

Court of Appeals Case No. 22A-JT-348

Appeal from the Vigo Circuit Court

The Honorable Daniel W. Kelly, Magistrate

[1] Ju.B. is also referred to as J.C. in some portions of the record. (*See, e.g.*, Ex. Vol. III at 219.) However, we will refer to her as Ju.B. because that is the name the trial court used in its order terminating Parents' parental rights to her.

Indiana Department of Child Services, *Appellee-Petitioner*	Trial Court Cause Nos. 84C01-2104-JT-447 84C01-2111-JT-1182

May, Judge.

J.B. ("Mother") and B.C. ("Father") (collectively, "Parents") appeal the trial court's termination of their parental rights to K.B. and Ju.B. (collectively, "Children"). Parents make multiple arguments, which we revise and restate as:

1. Whether the Department of Child Services prematurely filed its petition to terminate Father's parental rights to Children;

2. Whether the trial court abused its discretion when it denied Mother's motion to continue the termination of parental rights fact-finding hearing;

3. Whether the evidence supports the trial court's findings challenged by Mother;

4. Whether the trial court's findings support its conclusion that the conditions under which Children were removed from Parents' care would not be remedied as to Mother;

5. Whether the trial court's findings support its conclusion that termination of Mother's parental rights to Children was in Children's best interests; and

6. Whether the trial court's findings support its conclusion that the conditions under which Children were removed from Parents' care would not be remedied as to Father.

We affirm.

Facts and Procedural History

[1] Parents are the biological parents of K.B. and Ju.B., born July 31, 2020, and July 8, 2021, respectively. Parents have a history of substance abuse. Parents have a longstanding relationship with the Department of Child Services as well, which has resulted in Child in Need of Services (CHINS) adjudications of their four older children, involuntary termination of their parental rights to two of those older children, award of guardianship to relatives for one of the older children, and voluntary termination of parental rights to one of the older children.

[2] When Mother gave birth to K.B., the hospital suspected K.B. was born drug exposed, but the hospital allowed K.B. to go home with Mother pending the results of the meconium screen. On August 6, 2020, the meconium screen came back positive for methamphetamine and THC, and DCS removed K.B. from Mother's care. On August 10, 2020, DCS filed a petition that alleged K.B. was a CHINS based on K.B.'s exposure to drugs during pregnancy, Mother's drug-related criminal history, and Mother's prior contact with DCS. Because

Mother was K.B.'s legal custodian,[2] DCS placed K.B. with a foster family, where she has lived ever since.

[3] After separate initial hearings, Parents both admitted K.B. was a CHINS. On September 22, 2020, the trial court held a dispositional hearing. The trial court adjudicated K.B. as a CHINS on October 5, 2020. On December 3, 2020, the trial court entered its dispositional order, which required Parents to, among other things, follow all recommendations of the Family Case Manager, including completing assessments and completing specific programs related to reunification; secure and maintain stable, suitable housing and income; refrain from use of illegal substances and alcohol; obey the law; complete psychological and substance abuse assessments and follow all recommendations therefrom; submit to random drug screens; and visit with K.B. In its December 3, 2020, order, the trial court also stated: "The Court finds and orders that this shall be a NO REASONABLE EFFORTS[3] case and DCS has no responsibility to refer and pay for services to [P]arents."[4] (Ex. Vol. IV at 140) (emphasis in original).

[4] Despite the lack of requirement to do so, DCS offered Parents multiple services including home-based case management, substance abuse treatment, random

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[2] It is unclear from the record why K.B. could not be placed with Father.

[3] Pursuant to Indiana Code section 31-34-21-5.6, a trial court can find reasonable efforts to reunify a child with the child's parents are not required when the child's parents have had their parental rights involuntarily terminated with respect to the child's biological sibling. Ind. Code § 31-34-21-5.6(b)(3).

[4] The trial court reiterated this finding in its order on May 11, 2021. (*See* Ex. Vol. IV at 117.)

drug screens, and clinical assessment and treatment. DCS also referred Father to the Fatherhood Engagement program. Mother complied with some of the ordered services. For example, soon after the trial court's dispositional order, Mother completed a substance abuse assessment and was on the waiting list for a substance abuse treatment program; she complied with drug screens, though she routinely tested positive for "high levels of Methamphetamine as well as THC[,]" (Ex. Vol. V at 132); and Mother attended most scheduled visits with K.B. During the same time, Father did not engage in services. Father inconsistently submitted drug screens and when he did submit to a drug screen, the screen was positive for methamphetamine. Father also missed several supervised visits with K.B.

[5] On December 22, 2020, the trial court held a permanency hearing. On December 28, 2020, the trial court entered its order approving a change in K.B.'s permanency plan from reunification to a concurrent plan of reunification with Mother and adoption based on Parents' lack of participation in services. After that date, Mother refused to participate in two substance abuse treatment opportunities, continued to test positive for methamphetamine, and was arrested on January 25, 2021, for violating her probation for a prior conviction, which resulted in incarceration in the Vermillion County Jail. Father did not engage in services or maintain contact with DCS during the relevant time frame. On April 16, 2021, DCS filed a petition to terminate Parents' parental rights to K.B. based on noncompliance with services. On May 25, 2021, the trial court held another permanency hearing. On May 28, 2021, the trial court

entered its order maintaining concurrent permanency plans of reunification with Mother and adoption based on Parents' noncompliance with services.

[6] On July 8, 2021, Mother gave birth to Ju.B. while incarcerated. DCS removed Ju.B. from Mother immediately due to Mother's incarceration and Father's inability to care for the child. DCS placed Ju.B. in the same foster home as her sister, K.B., where she has lived ever since. On July 12, 2021, DCS filed a petition alleging Ju.B. was a CHINS. Parents admitted Ju.B. was a CHINS, and the trial adjudicated Ju.B. as a CHINS on August 3, 2021. On August 31, 2021, the trial court held its dispositional hearing and, the next day, entered its order requiring Parents to complete the same services as were enumerated in the dispositional order for K.B. On September 22, 2021, the trial court entered its order finding "reasonable efforts to reunify this child with the child's parent, guardian, or custodian are not required." (Ex. Vol. IV at 232.)

[7] On October 20, 2021, the trial court held a permanency hearing for Children and found Parents had not complied with the requirements of the dispositional orders. Mother was incarcerated and could not participate in services. Father completed a substance abuse assessment but continued to test positive for high levels of methamphetamine. The trial court changed Children's permanency plan to adoption with a concurrent plan of reunification with Parents upon the appointment of a legal guardian.

[8] On November 8, 2021, DCS filed a petition to involuntarily terminate Parents' parental rights to Ju.B. The trial court scheduled a fact-finding hearing on both

termination petitions for December 6, 2021. On November 19, 2021, Mother filed a motion for continuance in which she argued the trial court should continue the December 6 hearing because she would be released from incarceration on January 17, 2022, she had been sober for almost a year, she had completed several substance abuse related programs while in jail, and she "wants to fight for her children and stay sober." (Mother's App. Vol. II at 56.) DCS objected, arguing "Mother's sobriety is due, in part to her incarceration in the Vermillion County Jail since January of [2021,]" Mother "has continuously been involved with the department since approximately 2015[,] resulting in two involuntary terminations and one voluntary termination of parental rights[,]" and "a continuance in this matter will be an undue delay in finding permanency for [Children]." (*Id*. at 59.) On November 23, 2021, the trial court summarily denied Mother's request for a continuance. The trial court held the termination fact-finding hearing on December 6, 2021. Parents appeared in person with counsel. On December 29, 2021, the trial court entered orders involuntarily terminating Parents' parental rights to Children.

Discussion and Decision

[9] We review termination of parental rights with great deference. *In re K.S.*, 750 N.E.2d 832, 836 (Ind. Ct. App. 2001). We will not reweigh evidence or judge the credibility of witnesses. *In re D.D.*, 804 N.E.2d 258, 265 (Ind. Ct. App. 2004), *trans. denied*. Instead, we consider only the evidence and reasonable inferences most favorable to the judgment. *Id*. In deference to the juvenile

court's unique position to assess the evidence, we will set aside a judgment terminating a parent-child relationship only if it is clearly erroneous. *In re L.S.*, 717 N.E.2d 204, 208 (Ind. Ct. App. 1999), *trans. denied*, *cert. denied* 534 U.S. 1161 (2002).

[10] "The traditional right of parents to establish a home and raise their children is protected by the Fourteenth Amendment of the United States Constitution." *In re M.B.*, 666 N.E.2d 73, 76 (Ind. Ct. App. 1996), *trans. denied*. A juvenile court must subordinate the interests of the parents to those of the child, however, when evaluating the circumstances surrounding a termination. *In re K.S.*, 750 N.E.2d at 837. The right to raise one's own child should not be terminated solely because there is a better home available for the child, *id.*, but parental rights may be terminated when a parent is unable or unwilling to meet his or her parental responsibilities. *Id*. At 836.

[11] 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. *In re G.Y.*, 904 N.E.2d 1257, 1260-61 (Ind. 2009), *reh'g 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 statute terminating parental rights." *Platz v. Elkhart Cnty. Dep't of Pub. Welfare*, 631 N.E.2d 16, 18 (Ind. Ct. App. 1994).

1. Father's Challenge to the Filing of the Termination Petition

[12] Father argues DCS should not have been allowed to file a petition to terminate his parental rights to J.B. less than six months after she was declared a CHINS because there "no chance for a relationship to be established or recognized"

within such a short time frame. (Father's Br. at 19.) When filing a petition to terminate a parent's parental rights, DCS must allege

> 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

Ind. Code § 31-35-2-4(b)(2)(A).

[13] Father does not provide legal support for his argument that there should be a time frame during which DCS must wait before filing a petition to terminate parental rights after the trial court has entered an order finding reasonable efforts to reunify the family are not required. Therefore, his argument is waived. *See* Ind. App. R. 46(A)(8)(a) (arguments not supported by citations to relevant case law are waived); *and see In re A.G.*, 6 N.E.3d 952, 957 (Ind. Ct.

App. 2014) (failure to cite authority results in lack of cogent argument prompting waiver).

[14] Waiver notwithstanding, Indiana Code section 31-35-2-4(b)(2)(A) is written in the disjunctive, such that DCS only needs to meet one of those requirements to file a petition to terminate parental rights. Here, the trial court found, in its September 22, 2021, order, that reasonable efforts to reunify the family were not required pursuant to Indiana Code section 31-34-21-5.6. Thus, Indiana Code section 31-35-2-4(b)(2)(A)(ii) is satisfied, and DCS did not need to wait any particular length of time to satisfy that portion of the termination statute. *See In re L.S.*, 717 N.E.2d at 209 (when statute written in disjunctive, court needs to find only one requirement met).

2. Mother's Motion to Continue

[15] Mother argues the trial court abused its discretion when it denied her motion to continue the fact-finding hearing until after her release from incarceration because "the brief continuance would not have harmed [Children], since they were already living in the same home in which they had lived since their removal and were, by all accounts, doing well." (Br. of Mother at 25.) The decision to grant or deny a continuance rests within the sound discretion of the juvenile court. *Rowlett v. Vanderburgh Cnty. Office of Family & Children*, 841 N.E.2d 615, 619 (Ind. Ct. App. 2006), *trans. denied*. We will reverse the court's decision only for an abuse of that discretion. *Id*. An abuse of discretion occurs when the party requesting the continuance has shown good cause for granting

the motion and the juvenile court denies it. *Id*. No abuse of discretion will be found when the moving party is not prejudiced by the denial of its motion. *Id*.

[16] To support her argument, Mother likens the facts before us to those in *Rowlett*. In that case, the father, Rowlett, was incarcerated shortly after his children were adjudicated as CHINS. *Id*. at 618. DCS eventually filed petitions to terminate Rowlett's rights to his children. *Id*. Rowlett filed a motion to continue the termination fact-finding hearing because he was scheduled to be released from incarceration six weeks after the hearing and "he wanted an opportunity to become established in the community and to participate in services directed at reunifying him with [his children.]" *Id*. at 619. We held the trial court abused its discretion when it denied Rowlett's motion to continue because:

> [Rowlett] showed good cause for granting his motion to continue the dispositional hearing - an opportunity for him to participate in services offered by the OFC directed at reunifying him with his children upon his release from prison. We acknowledge that [Rowlett] requested a continuance because he would still have been incarcerated on the date of the scheduled hearing and recognize that such incarceration was by his own doing. Nevertheless, [Rowlett] was set to be released only six weeks after the scheduled dispositional hearing. Further, [Rowlett] has demonstrated prejudice by the denial of his motion for continuance in that his ability to care for his children was assessed as of the date of the hearing he sought to have continued. At that time, [Rowlett] was incarcerated and had not had the opportunity to participate in services offered by the OFC or to demonstrate his fitness as a parent. The result was that his parental rights were forever and unalterably terminated. This result is particularly harsh where [Rowlett], while incarcerated, participated in numerous services and programs, although

> offered by the correctional facility and not the OFC, which would be helpful to him in reaching his goal of reunification with his children.

Id.

[17] There are some facts in the case before us that are similar to those in *Rowlett* – Mother was incarcerated and scheduled to be released shortly after the scheduled fact-finding hearing. However, that is where the similarities end. Here, Mother was offered multiple services, including substance abuse treatment, despite the trial court's order indicating DCS did not have to assist in reunification services. Mother did not complete any of those services and continued to use illegal drugs. Additionally, unlike in *Rowlett*, Mother has a long history of DCS involvement that has resulted in the removal of multiple other children from her care. Finally, Mother argued in her motion to continue that she needed the continuance to demonstrate she was able to stay sober and care for Children. However, Mother's past patterns of behavior suggest otherwise, as she has maintained sobriety primarily through incarceration and, in the past, relapsed shortly after release from incarceration.

[18] While the continuance was shorter than requested in *Rowlett*, we cannot say Mother was prejudiced by the trial court's denial of her motion to continue because her past behavior undercuts Mother's argument that Children should wait indefinitely for her to achieve a stable period of sobriety. Children need stability, and they cannot be made to languish, waiting for permanency, until Mother demonstrates she can provide them with a safe, stable home. *See Baker*

v. Marion Cnty. OFC, 810 N.E.2d 1035, 1040 n.4 (Ind. 2004) (limitations on trial court's ability to approve long-term foster care are designed to ensure a child does not "languish, forgotten, in custodial limbo for long periods of time without permanency") (quoting *In re Priser*, No. 19861, 2004 WL 541124 at *6 (Ohio Ct. App. March 19, 2004)). Therefore, we conclude the trial court did not abuse its discretion when it denied Mother's motion to continue. *See In re J.E.*, 45 N.E.3d 1243, 1247 (Ind. Ct. App. 2015) (affirming denial of father's motion to continue because father could not show prejudice based on his "patterns with respect to attendance, communication and participation when he was not incarcerated"), *trans. denied*.

3. Mother's Challenged Findings

[19] When, as here, a judgment contains specific findings of fact and conclusions thereon, we apply a two-tiered standard of review. *Bester v. Lake Cnty. Office of Family & Children*, 839 N.E.2d 143, 147 (Ind. 2005). We determine whether the evidence supports the findings and whether the findings support the judgment. *Id.* "Findings are clearly erroneous only when the record contains no facts to support them either directly or by inference." *Quillen v. Quillen*, 671 N.E.2d 98, 102 (Ind. 1996). If the evidence and inferences support the juvenile court's decision, we must affirm. *In re L.S.*, 717 N.E.2d at 208. Mother challenges four of the trial court's findings, arguing they are not supported by the evidence. We will address each separately.

3.1 Evidence Regarding K.B.'s Meconium Testing

[20] Findings listed under 2(f) enumerate the conditions under which Children were removed from Mother's care. Finding 2(f)(5) states, "[K.B.] was born July 31, 2020, and tested positive for methamphetamine at birth. She was removed August 6, 2020, and has been outside the home since then." (Mother's App. Vol. II at 68.) Mother argues the evidence does not support the finding because DCS presented no evidence of illegal substances in K.B.'s meconium and/or cord blood.[5]

[21] During the termination fact-finding hearing, without objection from Mother, DCS entered into evidence Exhibits A-H, which were K.B.'s hospital records. Exhibit F was a copy of K.B.'s hospital record. In that hospital record, on August 6, 2020, hospital employee Julie Kassis noted: "Meconium results back today. I reviewed the meconium results with Dr. Kohr. [K.B.'s] meconium is positive for methamphetamine and THC." (Ex. Vol. V at 58.) The hospital record[6] indicates K.B.'s meconium tested positive for methamphetamine and THC. Mother's arguments to the contrary are invitations for us to reweigh the

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[5] Mother also argues there was no expert witness testimony regarding the method of collection or the results of the test, there was no testimony regarding chain of custody, and the drug test records do not qualify under the business records exception to the hearsay rule. Mother's arguments regarding these issues are waived because she is making those arguments for the first time on appeal. *See McBride v. Monroe Cnty. Office of Family & Children*, 798 N.E.2d 185, 194-5 (Ind. Ct. App. 2003) (issue raised for the first time on appeal is waived).

[6] Mother also argues that there were inconsistencies in DCS documents regarding where the testing was completed. However, the documents to which she refers were internal DCS documents, and the difference in the names of the hospitals in the history narratives on these documents were no more than scrivener's error. The hospital record speaks for itself.

evidence or judge the credibility of witnesses, which we cannot do. *See In re D.D.*, 804 N.E.2d at 265 (appellate court does not reweigh evidence or judge the credibility of witnesses).

3.2 Mother's Compliance with Services

[22] Finding 2(f)(14) of the termination order[7] states, in relevant part: "[Parents] failed to take advantage of services that were offered by DCS when they did not have to be offered following previous involuntary terminations." (Mother's App. Vol. II at 70.) Similarly, Finding 2(d)(6) of Ju.B.'s termination order states, in relevant part, that "by December 2020, [Mother] had been closed out of [out-patient drug treatment] due to non-compliance." (*Id*. at 74-5.) Mother argues those two findings are not supported by evidence, and she notes the services she did complete during her opportunity to do so and asks us to give those efforts more weight. While we recognize Mother participated in some services such as a substance abuse assessment, some home-based services, random drug screens, and a clinical interview and assessment, Mother's argument ignores the fact that she did not participate in any substance abuse treatment to completion, did not follow through with individual therapy recommendations, and failed a drug screen that resulted in her reincarceration due to a probation violation. Mother's argument is an invitation for us to

[7] Unless otherwise noted, the findings in Children's termination orders are essentially the same. Therefore, we quote from the trial court's order regarding K.B.

reweigh the evidence, which we cannot do. *See In re D.D.*, 804 N.E.2d at 265 (appellate court does not reweigh evidence or judge the credibility of witnesses).

3.3 Mother's Sobriety at the Time of the Termination Hearing

[23] Finding 2(f)(15) concerns Parents' struggles with sobriety. Mother argues the portion of the finding that states she has "been unable to demonstrate an ability to remain sober" is not supported by the evidence. (Mother's App. Vol. II at 71.) She contends she had been sober for almost a year at the time of the fact-finding hearing, and the trial court did not properly take that into account or give Mother an opportunity to prove she could remain sober following her release from incarceration. However, her argument ignores her past inability to maintain sobriety and the effects that had on not only Children, but her four prior-born children.

[24] Our Indiana Supreme Court has noted in a case with similar facts:

> It is of no small consequence that evidence presented during the hearing reveals that Mother had not used illegal drugs in approximately 17 months and she had not consumed alcohol in approximately 11 months, resulting in roughly 40 negative drug screens during that time. We are mindful, however, that the trial court was within its discretion to consider that the first eleven months of her sobriety were spent in prison where she would have not had access to any illegal substances, nor be subjected to the type of stressors—namely the responsibility of maintaining a household and raising three young and active children—that would normally trigger a desire to pursue an escape from the pressures of everyday life that drugs often provide.

K.T.K. v. Indiana Dept. of Child Servs., Dearborn Cnty. Office, 989 N.E.2d 1225, 1234 (Ind. 2013). While we commend Mother's recent sobriety, that sobriety was achieved only while she was incarcerated without access to illegal substances. Additionally, during that time of sobriety, Mother was not subject to the day-to-day stressors associated with raising children, which may cause Mother to relapse into drug use. Further, as noted in *K.T.K.*, the trial court was well within its discretion to "disregard the efforts Mother made only shortly before termination and to weigh more heavily Mother's history of conduct prior to these efforts." *Id*. Mother's argument is an invitation for us to reweigh the evidence or judge the credibility of witnesses, which we cannot do. *See In re D.D.*, 804 N.E.2d at 265 (appellate court does not reweigh evidence or judge the credibility of witnesses).

3.4 Mother's Visitation with Children

[25] Finding 2(d)(15) of the termination order states, in relevant part: "[Parents] have had only sporadic, supervised contact with [K.B.] and no contact with her infant sister, [Ju.B.]." (Mother's App. Vol. II at 71.) Mother argues that, "to the extent that the trial court found as a matter of fact that Mother *chose* not to visit with [Children], such finding is not supported by the evidence." (Br. of Mother at 39) (emphasis in original). Contrary to Mother's assertion, the finding does not address whether Mother chose not to visit Children; instead, it states that Mother had not visited Children, which is supported by the evidence. During the fact-finding hearing, the Family Case Manager testified Mother was given two one-hour visits per week from November 6, 2020, until Mother was

reincarcerated on January 25, 2021. Mother missed several of those visits. Mother also testified she saw Children once on a video phone visit with Father, and Mother's case plan indicated she spoke with Ju.B. via telephone from time to time. There was sufficient evidence to support the trial court's finding, and Mother's argument is an invitation for us to reweigh the evidence or judge the credibility of witnesses, which we cannot do. *See In re D.D.*, 804 N.E.2d at 265 (appellate court does not reweigh evidence or judge the credibility of witnesses).

4. Mother's Challenge to Conclusion That Conditions Under Which Children Were Removed from Her Care Would not be Remedied

[26] The trial court must judge a parent's fitness to care for her child at the time of the termination hearing. *In re A.B.*, 924 N.E.2d 666, 670 (Ind. Ct. App. 2010). Evidence of a parent's pattern of unwillingness or lack of commitment to address parenting issues and to cooperate with services "demonstrates the requisite reasonable probability" that conditions will not change. *Lang v. Starke Cnty. OFC*, 861 N.E.2d 366, 372 (Ind. Ct. App. 2007), *trans. denied*. Mother argues the trial court's conclusion that the conditions under which Children were removed from her care would not be remedied is not supported by the trial

court's findings. The trial court's findings[8] regarding this element of termination, located in Section 2, subsection d of the trial court's orders are:

> 1. Parents have a long history of drug abuse, which resulted in involuntary terminations of parental rights with regard to two older children.
>
> 2. Mother was incarcerated from 2007 to 2012 for a methamphetamine offense. She said that her longest period of sobriety was a period of three years after getting out of prison in 2012 until shortly before becoming pregnant with an older child, [Jo.], in late 2014.
>
> 3. [Jo.] was born in September 2015 and [Parents'] rights to that child were terminated in December 2018, following a CHINS case that was opened in October 2015.
>
> 4. [P.], the parties' oldest child, was born February 2014 and [Parents'] rights to that child were terminated in December 2018, following a CHINS case that was opened in October 2015.
>
> 5. [K.B.] was born July 31, 2020, and tested positive for methamphetamine. She was removed August 6, 2020, and has been outside the home since then. Her sister, [Ju.B.], was born July 8, 2021, while Mother was incarcerated and the termination proceedings with respect to [K.B.] were pending.

[8] As we determined all of the findings challenged by Mother were supported by the evidence, they are considered true. Moreover, all unchallenged findings are accepted as true. *See Madlem v. Arko*, 592 N.E.2d 686, 687 (Ind. 1992) ("Because Madlem does not challenge the findings of the trial court, they must be accepted as correct.").

6. Despite having two previous involuntary terminations and a third child that resulted in a voluntary termination, DCS offered services to [Parents] following [K.B.'s] removal. [Mother] was recommended to complete "Matrix," an intensive out-patient treatment plan at Hamilton Center; however the dispositional hearing was held on September 22, 2020, and by December 2020, [Mother] had been closed out of that service due to non-compliance. She was also ordered to participate in individual therapy, but attended only two therapy sessions and was also closed out of that service in December 2020.

7. From November 2020 to January 2021, DCS was trying to persuade [Mother] to enter an inpatient treatment center. The Family Case Manager [FCM] first attempted to persuade [Mother] to enter a local facility called "Eagle Street;" however, due to its location in Terre Haute, [Mother] told the FCM that she feared she would leave the facility. Shortly thereafter, the FCM informed [Mother] of an opening at the Hickory treatment center. Mother initially said that she would go to the facility, but after several weeks of delays, she became pregnant and decided against inpatient treatment. She was continuing to consistently test positive for methamphetamine, amphetamine and marijuana.

8. Although [Mother] was at least submitting to the drug screens and acknowledging her use at this time, she eventually stopped submitting to screens for fear that it would lead to a revocation of her probation, which ultimately occurred.

* * * * *

13. [Mother] maintained sobriety for eleven (11) months while incarcerated and said she is determined to remain clean when she gets out. [Father] has continued to use meth regularly throughout DCS's involvement with [Children]. Since the parents have a long-term relationship, DCS is concerned about

> Mother's ability to maintain sobriety if she resumes a relationship with a regular meth user, although she testified she does not intend to get back with him in light of his continued use.
>
> * * * * *
>
> 15. [Mother] struck the court as honest and sincere in her determination to maintain sobriety upon her imminent release from incarceration. As mentioned above, Mother has a long and sad history of substance abuse, and it is hoped that she will continue her efforts at sobriety and turning her life around. If she does so, there should be no reason for her to ever have DCS involvement in her life again, and she would be free to have future children in her care. However, this seems to be a situation where the court is confronted by a compelling combination of two unavoidable facts: (1) [Parents] have long histories of substance abuse and criminality and have been unable to demonstrate an ability to remain sober and care for their children over many years; and (2) the two siblings at issue are in an ideal home, where they have lived their entire lives and are receiving top-level care and affection. . . . [Parents] have had only sporadic, supervised contact with [K.B.] and no contact with her sister, [Ju.B.].

(Mother's App. Vol. II at 68-71.)

[27] Again, while we commend Mother's recent sobriety and willingness to engage in services, we cannot ignore her noncompliance with services, the fact that her sobriety is the result of the controlled environment of incarceration, and her pattern of substance abuse that has resulted in the termination of her parental rights to three of her prior-born children. The trial court's findings demonstrate Mother's continued failure to remedy her substance abuse issues, which

resulted in Children's removal. Based thereon, we hold the trial court's findings supported its conclusion that the conditions under which Children were removed from Mother's care would not be remedied.[9] *See In re K.T.K.*, 989 N.E.2d at 1234 (mother's recent sobriety outweighed by her history of substance abuse and neglect of her children).

5. Mother's Challenge to Trial Court's Conclusion that Termination would be in Children's Best Interests

[28] In determining what is in Children's best interests, a trial court is required to look beyond the factors identified by DCS and consider the totality of the evidence. *In re A.K.*, 924 N.E.2d 212, 223 (Ind. Ct. App. 2010), *trans. dismissed*. A parent's historical inability to provide a suitable environment, along with the parent's current inability to do so, supports finding termination of parental rights is in the best interests of the children. *In re A.L.H.*, 774 N.E.2d 896, 990 (Ind. Ct. App. 2002). The recommendations of a DCS case manager and court-appointed advocate to terminate parental rights, in addition to evidence that conditions resulting in removal will not be remedied, are sufficient to show by clear and convincing evidence that termination is in Child's best interests. *In re*

[9] Mother also argues the trial court's findings do not support its conclusion that the continuation of the Mother-Children relationship poses a danger to Children's well-being. As the relevant statute is written in the disjunctive, DCS is required to prove only one of the three parts of Indiana Code Section 31-35-2-4(b)(2)(A). *See In re B.J.*, 879 N.E.2d 7, 20 (Ind. Ct. App. 2008) (Indiana Code Section 31-35-2-4(b)(2)(A) is written in the disjunctive and thus DCS need only prove one of the enumerated elements therein), *trans. denied*. As the facts support the trial court's conclusion about conditions not being remedied, we need not address whether its findings also supported a conclusion that continuation of the relationship poses a danger to Children's well-being.

J.S., 906 N.E.2d 226, 236 (Ind. Ct. App. 2009). Mother argues[10] termination of her parental rights to Children is not in Children's best interests because "she has already demonstrated her commitment to maintaining her sobriety so that she can continue her relationship with these children." (Br. of Mother at 40-1) (emphasis omitted).

[29] As noted *supra*, Mother has a history of substance abuse and had her parental rights to three children terminated previously. She has been sober for eleven months primarily due to her incarceration and, prior to her incarceration for violating probation by using illegal drugs, Mother did not avail herself to any services offered by DCS, who was not required to offer her services. The Court-Appointed Special Advocate ("CASA") testified:

> [CASA]: At this point and time, I do believe that um, termination is the best. I believe, even though [Mother] has been sober this whole entire time, I believe once she gets out, um, if she does not go somewhere that is going to be a healthy environment, she's gonna go back to [Father], they're are gonna end up doing the same thing. I think it's just a matter of time. Um, as much as I hate, at one time, I did fight for them to keep their kids, um, but at this time, it is the best interest of the kids not to be there. I feel like, no driver license, they don't have jobs, um, just the history of both of them.

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[10] Mother also argues *Matter of A.B.*, 130 N.E.3d 233 (Ind. Ct. App. 2019), abrogated on unrelated grounds in *Matter of K.R.*, 154 N.E.3d 818 (Ind. 2020), supports her contention that her sobriety should weigh heavily on the trial court's termination decision. However, *Matter of A.B.* is distinguishable, if for no other reason than the fact that the mother in *Matter of A.B.* did not have a lengthy history with DCS resulting in the termination of parental rights to multiple prior-born children.

> [DCS]: Okay. Is there a pattern that-that you have seen during your involvement as a CASA (Court Appointed Special Advocate) that you feel is-is a reoccurring pattern with this family?
>
> [CASA]: So, what I see is, anytime we come to this point of a TPR (Termination of Parental Rights), close to a case of them losing their kids, they jump right in, they say they're going to go to treatment, they're gonna do this, they're gonna do that um, sober living. I don't even know if [Mother] is even allowed back a Club Soda, they have no driver's license, it's just a pattern each time with each kid, they say they're gonna do these things and they don't.

(Tr. Vol. II at 106) (errors in original). Thus, considering the trial court's findings supporting its conclusion that the conditions under which Children were removed from Mother's care would not be remedied, coupled with the CASA's recommendation to terminate Mother's parental rights to Children, we hold the trial court's findings support its conclusion that termination of Mother's parental rights to Children was in Children's best interests. *See Prince v. Dept. of Child Servs.*, 861 N.E.2d 1223, 1231 (Ind. Ct. App. 2007) (termination in children's best interests based on mother's habitual pattern of drug use and non-compliance with services).

6. Father's Challenge to Trial Court's Conclusion

[30] Father argues the trial court erroneously concluded, under Indiana Code section 31-35-2-4(b)(1)(B)(i), that the conditions under which Children were removed from his care would not be remedied. We note Indiana Code section 31-35-2-4(b)(1)(B) is written in the disjunctive, such that the trial court need find

only one of the three elements to be true. *See In re L.S.*, 717 N.E.2d at 209 (because statute written in disjunctive, court needs to find only one requirement to terminate parental rights). Father does not argue the trial court's findings do not support its conclusion that the continuation of the parent-children relationship posed a threat to the well-being of Children, (*see* Mother's App. Vol. II at 68), which is one of the three elements in Indiana Code section 31-35-2-4(b)(1)(B). Therefore, we need not address Father's argument that one of the three elements was not satisfied because he does not contest the trial court's finding that continuation of the parent-children relationship poses a threat to the well-being of the Children. *See In re B.J.*, 879 N.E.2d 7, 20 (Ind. Ct. App. 2008) (statute setting forth requirements to terminate parental rights is written in the disjunctive and thus DCS has to prove one of those elements), *trans. denied*.

Conclusion

[31] We conclude DCS properly filed its petition for termination of parental rights pursuant to the requirements of Indiana Code section 31-35-2-4(b)(2)(A). Additionally, Mother did not demonstrate prejudice from the trial court's denial of her motion for a continuance, and thus, the trial court did not abuse its discretion in denying the motion. The findings Mother challenges were supported by the evidence presented by DCS. Finally, the trial court's conclusions that the conditions under which Children were removed from Mother's care would not be remedied and that termination of Mother's parental

rights was in Children's best interests were both supported by the trial court's findings. Therefore, we affirm the trial court's termination of Parents' parental rights to K.B. and Ju.B.

[32] Affirmed.

Riley, J., and Tavitas, J., concur.