

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

In the Termination of the Parent-
Child Relationship of:

M.S. (minor child)

and A.S. (Mother) & C.S.
(Father),

Appellants-Respondents,

v.

Indiana Department of Child
Services,

February 25, 2022

Court of Appeals Case No.
21A-JT-1876

Appeal from the Randolph Circuit
Court

The Honorable Jay L. Toney,
Judge

Trial Court Cause No.
68C01-2010-JT-198

Appellee-Petitioner.

Altice, Judge.

Case Summary

[1] A.S. (Mother) and C.S. (Father) (collectively, Parents) appeal the involuntary termination of their parental rights to their minor child, M.S. Father argues that the order terminating his parental rights must be set aside because the Indiana Department of Child Services (DCS) failed to prove by clear and convincing evidence that there was a reasonable probability that he would not remedy the reasons for M.S.'s removal from his care. Mother argues that the termination order must be set aside, claiming that several of the juvenile court's findings of fact and conclusions of law are clearly erroneous.

[2] We affirm.

Facts and Procedural History

- [3] Mother and Father are the parents of M.S., who was born on February 5, 2008. DCS became involved with the family on June 27, 2019, after Parents engaged in a domestic violence incident in M.S.'s presence. Parents were arrested because of that incident and were transported to the Randolph County Jail. DCS detained M.S. that same day, and later learned that Parents' residence had no running water or electricity.
- [4] DCS filed a Child in Need of Services (CHINS) petition on June 28, 2019, alleging that instances of domestic violence had occurred in front of M.S, that Parents were addicted to methamphetamine and other illegal substances, and that Parents had physically abused M.S. and failed to provide her with proper medical care and other necessities. It was determined that Parents had not been caring for M.S. "for quite a while." *Transcript* at 33, 35.
- [5] M.S. was placed in foster care, and on August 7, 2019, the juvenile court held a hearing and adjudicated M.S. a CHINS based on Parents' admissions to various allegations in the petition. The juvenile court entered a dispositional decree and parental participation order on September 4, 2019, ordering parents to:

--Contact the DCS family case manager (FCM) on a weekly basis and allow the FCM and service providers access to Parents' home.

--Not use or consume illegal controlled substances.

--Complete separate parenting and substance abuse assessments and all recommendations.

--Not engage in domestic violence and complete a domestic violence assessment and any recommendations.

--Attend all visitation with [M.S.].

Exhibit 4.

- [6] In February 2020, the juvenile court held a review hearing and found that Parents had not participated in DCS programs, had not been visiting M.S., had not cooperated with DCS case managers, and had not kept their scheduled counseling appointments. M.S. was ordered to remain in foster care, but Parents were allowed to have telephone contact with M.S. because the COVID-19 pandemic did not permit in-person visits.
- [7] At a subsequent July 29, 2020, review and permanency hearing, the juvenile court noted Parents' continued noncompliance with DCS's case plan and programs. The evidence also showed that Parents had not visited M.S. since February 26, 2020. As a result, the juvenile court changed M.S.'s permanency plan from reunification to adoption. Mother and Father were ordered to "each contact Centerstone and initiate services through [the] Centerstone [rehabilitation center]." *Exhibit 4.* DCS had previously referred Parents to Centerstone for various services, including substance abuse treatment and homemaker services.

- [8] Parents failed to complete parenting assessments and refused to permit DCS personnel to inspect their residence. They also failed to maintain stable employment and steady incomes and they did not address their domestic violence issues. As a result of Parents' noncompliance, DCS filed a petition to terminate their parental rights as to M.S. on October 5, 2020.
- [9] At the termination hearing, the evidence established that Parents failed to maintain their sobriety and/or comply with court-ordered drug screens. Parents also failed to complete substance abuse programs and declined to participate in aftercare programs. The evidence also showed that during the pendency of the CHINS case, Mother tested positive for methamphetamine, amphetamine and/or ephedrine on thirteen occasions, and tested negative on only four occasions. During that period, Father tested positive for methamphetamine or fentanyl on sixteen occasions and tested negative for illegal substances on two occasions.
- [10] Mother admitted on the first day of the termination hearing on February 21, 2021, that she had used methamphetamine "during the lunch break" that day. *Transcript* at 180, 189. Father admitted on the second day of the termination hearing (April 19, 2021), that he used methamphetamine a week prior to the hearing.
- [11] Evidence at the termination hearing also established that although Parents initiated contact with a life recovery coach at Centerstone, they failed to engage in any services with her. Father completed a twenty-one-day drug

rehabilitation program in December 2020, but he failed to participate in an aftercare program, and he did not submit to mandatory drug testing. Father overdosed on methamphetamine two days after the first day of the termination hearing, and he had overdosed on heroin in December 2019.

[12] The evidence also showed that DCS caseworkers and service providers had difficulty contacting Parents throughout the CHINS proceedings. Parents had not followed through with any of their scheduled meetings with DCS case managers since February 2020, and they had contact with M.S. fewer than five times from January 2020 through August 2020. Parents admitted that they failed to cooperate with DCS personnel and programs and acknowledged that they “should have done more.” *Id.* at 168-69.

[13] Father had done nothing to prepare for M.S.’s possible return to Parents’ residence, and there was no bed at the residence for M.S. Mother agreed with DCS caseworkers that Parents did not have a suitable and safe residence where M.S. could live.

[14] The evidence at the termination hearing further established that Father completed only three employment applications prior to the termination hearing, and he did not participate in any home-based casework services. Although DCS assisted Parents in trying to find jobs, neither parent found stable employment and Parents did not have steady incomes.

[15] M.S. has lived in the same foster home since November 2019, and her behavioral issues and her grades at school have improved. DCS’s plan for M.S.

is adoption and her current foster family is willing to adopt her. DCS caseworkers and the court appointed special advocate (CASA) testified that termination of Mother's and Father's parental rights is in M.S.'s best interests.

[16] Following the two-day termination hearing, the juvenile court entered the following unchallenged findings of fact and conclusions of law relevant to this appeal:

21. Due to the COVID-19 pandemic, Parents were offered virtual visits from March, 2020, to August, 2020. In August, 2020, Parents were, again, offered in-person visits with Juvenile; however, Parents failed to attend the meeting to arrange the in-person visits.

...

23. From February, 2020, to August, 2020, Parents did not attend any meetings with . . . Case Manager Sarah Stults, including the meetings that Parents scheduled with Stults, in person.

24. Parents did not allow . . . Stults to inspect any of their residences.

...

26. Parents did not complete the parenting assessment.

30. Parents did not follow through with home-based case management services to address their housing issues.

31. After February, 2020, Parents never contacted . . . Stults to inquire as to how Juvenile was doing with school, how Juvenile's health was, or how Juvenile was doing in general.

32. Karla Eberle, with the Youth Service Bureau, was referred to help Mother in October, 2020, with home-based casework services, and helping Mother with housing issues, gaining employment, and obtaining Mother's ID.

33. Karla Eberle was only able to make contact with Mother on one occasion per month during the months of November, 2020, December, 2020, and January, 2021, despite having reached out to Mother on approximately twenty . . . occasions.

34. Mother made no progress with Karla Eberle's services.

...

45. DCS Case Manager Brittany Duffer went to the home of Parents, and Mother refused to let Brittany Duffer into the home.

46. Parents refused to allow DCS Case Manager Brittany Duffer into their residence until a later date of Parents' choosing, and when Brittany Duffer was allowed into the residence, she noted that there was no place for Juvenile in the home.

...

53. Parents have not obtained a stable residence.

54. Parents have not addressed their lack of communication.

...

60. DCS Case Manager Brittany Duffer continued her efforts to locate Parents.

61. Brittany Duffer was only able to locate Father on one occasion since February 23, 2021, and Father has not contacted Brittany Duffer on his own.

62. Mother has not contacted Brittany Duffer, and Brittany Duffer has been unable to locate Mother.

...

68. Father is self-employed doing a bathroom remodel and mowing lawns.

69. Father stated that he only missed a visit when he was in the hospital following his first overdose, but then also stated that the last time he saw Juvenile was in March, 2020.

70. Father agreed that to provide for Juvenile, Father still needed counseling, parenting classes and Batterer's Intervention Program; however, Father admits that he does not call DCS and does not ask DCS for anything.

...

75. In between the two Fact-Finding Hearings, Father did not get ahold of Case Manager Brittany Duffer to initiate services. . . .

77. Father admitted that in nearly two years, he did not have a bed for Juvenile . . . and Father has not done anything since this case was opened to prepare for Juvenile to return . . . home.

78. Father did not ask about Juvenile's school records during the CHINS case.

79. Father admitted that he did not complete the domestic Batterer's Intervention Program, but agreed that domestic battery is a concern in this case.

...

84. Father did not pay his \$10.00 per week as ordered for child support, even though he knew that he should be paying his support. Father did get a stimulus check, and he did not apply any of the money from the stimulus check toward his child support payments.

...

87. Mother admitted that the home-based caseworker did help Mother in obtaining her social security card and birth certificate, but Mother still never got her ID so that she could seek regular employment or acquire housing.

...

93. Mother agrees that Mother's home is not appropriate for Juvenile to reside in.

94. Mother admitted that she did not regularly contact service providers or DCS, and that Mother did not attempt to contact Case Manager Brittney Duffer from January, 2021, until the April Fact-Finding Hearing date.

95. Parents have not contacted DCS Case Manager Brittney Duffer.

96. All contact between DCS Case Manager Brittney Duffer has been made when Ms. Duffer was able to locate Parents, not by Parents contacting Ms. Duffer.

97. Parents have not followed through with requests for continued services.

98. According to DCS Case Manager Brittany Duffer, Parents have not telephoned Ms. Duffer and have left no messages for Ms. Duffer.

99. Parents did not make themselves available for telephonic and/or virtual visitations during the COVID-19 pandemic.

100. Parents did not ask for visitations and failed to attend set meetings to schedule their visitations.

101. Prior to the COVID-19 protocols, the Parents' lack of progress had their order of visitation at a level of telephonic visitations, and Parents did not engage in the telephonic visitations.

...

104. Parents have not visited Juvenile for over a year.

105. Parents have shown little interest in Juvenile, and little interest in doing services or visitations in efforts to rehabilitate their bond with Juvenile.

106. Parents are unprepared to provide financially for Juvenile, have made no progress on employment prospects and have not progressed on having a suitable and safe home for Juvenile.

...

109. Parents are unable to provide Juvenile with a safe, structured, and stable home.

110. Termination of Mother's and Father's parental rights is in Juvenile's best interest because of the lack of engagement that Parents have shown, and Parents failed to demonstrate significant improvement or potential to remedy the reasons for Juvenile's removal.

111. There is a reasonable probability that the conditions that resulted in Juvenile's removal and/or continued placement outside the home will not be remedied.

112. There is a reasonable probability that the continuation of the parent/child relationship poses a threat to the well-being of Juvenile.

113. Termination of the parent/child relationships is in the best interest of Juvenile.

Appendix at 97-102.

[17] Parents now appeal. Additional facts will be discussed as necessary.

Discussion and Decision

I. Standard of Review

[18] The Fourteenth Amendment to the United States Constitution protects the traditional right of parents to establish a home and raise their children. *Bester v.*

Lake Cnty. Off. of Fam. and Child., 839 N.E.2d 143, 147 (Ind. 2005). A parent’s interest in the care, custody, and control of his or her children is “perhaps the oldest of the fundamental liberty interests.” *Id.* However, parental rights “are not absolute and must be subordinated to the child’s interests in determining the proper disposition of a petition to terminate parental rights.” *Id.* If parents are “unable or unwilling to meet their parental responsibilities,” termination of parental rights is appropriate. *Id.* We recognize that the termination of a 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).

[19] We rely on a deferential standard of review in cases concerning the termination of parental rights due to the trial court’s “unique position to assess the evidence.” *In re A.K.*, 924 N.E.2d 212, 219 (Ind. Ct. App. 2010), *trans. dismissed*. We neither reweigh evidence nor assess the credibility of witnesses. *K.T.K. v. Ind. Dep’t of Child Servs.*, 989 N.E.2d 1225, 1229 (Ind. 2013). We consider only the evidence and any reasonable inferences that support the trial court’s judgment. *Id.*

[20] Relevant here is Ind. Code § 31-35-2-4(b)(2), which provides that before terminating a parent’s rights to his or her child, DCS must prove:

(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 [CHINS];

(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.

[21] DCS must prove each of the foregoing elements by clear and convincing evidence. *C.A. v. Ind. Dep't of Child Servs.*, 15 N.E.3d 85, 92 (Ind. Ct. App. 2014). “[C]lear and convincing evidence requires the existence of a fact to be highly probable.” *Id.* We will set aside the juvenile court’s 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.*

II. Father’s Claims

[22] Father’s sole contention is that the evidence is insufficient to support the juvenile court’s determination that there was a reasonable probability that the conditions that led to M.S.’s removal from his care would not be remedied.

[23] We note that I.C. § 31-35-2-4(b)(2)(B) is written in the disjunctive. That is, DCS must prove there is a reasonable probability that the conditions that resulted in the child’s removal will not be remedied, *or* the continuation of the

parent-child relationship poses a threat to the child's well-being, *or* the child has been adjudicated CHINS on two separate occasions. I.C. § 31-35-2-4(b)(2)(B)(i)–(iii). Therefore, the juvenile court need only find that one of the three conditions was proven by clear and convincing evidence. *K.E.*, 39 N.E.3d at 646 n.4.

[24] Here, the juvenile court found that DCS proved that the conditions that led to M.S.'s removal would not be remedied *and* that continuing the parental relationship with Parents posed a threat to M.S.'s well-being. Because Father challenges only one of these, i.e., that the conditions resulting in removal would not be remedied—he effectively concedes that the trial court properly determined that continuing the parental relationship posed a threat to M.S.'s well-being. By failing to challenge the trial court's determination in this regard, Father has waived the issue. The termination order is not clearly erroneous. *See In re B.R.*, 875 N.E.2d 369, 373 (Ind. Ct. App. 2007) (holding that when a parent does not specifically challenge the juvenile court's findings or conclusions, the parent waives argument by failing to make a cogent argument), *trans. denied*.

[25] Waiver notwithstanding, we will address Father's argument. In determining whether there is a reasonable probability that the conditions that led to a child's removal will not be remedied, we engage in a two-step analysis process. *See K.T.K.*, 989 N.E.2d at 1231. First, we examine the conditions that led to the child's placement and retention in foster care, and second, whether there is a reasonable probability that those conditions will not be remedied. *Id.*

[26] In the second step, the juvenile court must judge a parent's fitness at the time of the termination proceeding, taking into consideration evidence of changed conditions and balancing a parent's recent improvements against "habitual pattern[s] of conduct to determine whether there is a substantial probability of future neglect or deprivation." *In re E.M.*, 4 N.E.3d 636, 643 (Ind. 2014) (quoting *K.T.K.*, 989 N.E.2d at 1231). In judging fitness, the juvenile court may properly consider, among other things, a parent's substance abuse and lack of adequate housing and employment. *McBride v. Monroe Co. v. OFC*, 798 N.E.2d 185, 199 (Ind. Ct. App. 2003). The juvenile court may also consider a parent's response to the offers of help, including services offered by DCS and the parent's response to those services. *In re N.Q.*, 996 N.E.2d 385, 392 (Ind. Ct. App. 2013). Additionally, a parent's failure to visit his or her child demonstrates the lack of commitment to complete the actions necessary to preserve the parent-child relationship. *Lang v. Starke Cnty. OFC of Fam. and Child.*, 861 N.E.2d 366, 372 (Ind. Ct. App. 2007), *trans. denied*.

[27] A pattern of unwillingness to deal with parenting problems and to cooperate with those providing social services, in conjunction with unchanged conditions, support a finding that there exists no reasonable probability that the conditions will change. *Id.* Finally, we note that a parent's past behavior is the best predictor of his or her future behavior. *In re E.M.*, 4 N.E.3d at 644-45.

[28] Based on the evidence presented at the termination hearing, the juvenile court concluded that Father failed to: a) maintain contact with DCS; b) cooperate with DCS staff; and c) participate and complete services that DCS offered.

Father also failed to remedy his substance abuse issues, did not submit to regularly scheduled drug screens, and visited with M.S. only five times in nearly eight months.

[29] Father admitted that he used illegal drugs only a week before the April 25, 2021, factfinding hearing, and he overdosed on February 25, 2021—two days after the first day of the termination hearing. Father also admitted that his drug use was “worse now than when the CHINS case was initiated.” *Transcript* at 139. Father consistently tested positive for methamphetamine, amphetamine, and other illegal substances throughout the CHINS proceedings, and he failed to address domestic violence issues.

[30] When considering this evidence, we readily agree with the juvenile court’s finding and conclusion that it was probable that the conditions that led to the initial removal of M.S. from Father’s custody would not be remedied. In short, Father’s contentions amount to an invitation for us to reweigh the evidence—an invitation we decline.

III. Mother’s Contentions

[31] Mother contends that the termination order must be set aside because the juvenile court erred in finding that DCS provided reasonable efforts toward reunification with M.S. Mother also attacks several of the juvenile court’s findings of fact and conclusions of law, claiming that they were not supported by the evidence. Hence, Mother claims that the juvenile court’s conclusions that there was a reasonable probability that the continuation of the parent-child

relationship threatened M.S.'s wellbeing, and termination of her parental rights was in M.S.'s best interests, must be set aside.

A. Efforts Toward Reunification

[32] As for Mother's contention that DCS failed to make reasonable reunification services available to her, we note that while DCS is generally required to make reasonable efforts to preserve and reunify families *during CHINS proceedings*, that requirement "is not a requisite element of our parental rights statute, and a failure to provide services does not serve as a basis on which to directly attack a termination order as contrary to law." *A.Z. v. Ind. Dep't of Child Servs.*, 915 N.E.2d 145, 148 n.3 (Ind. Ct. App. 2009); *see also In re A.D.W.*, 907 N.E.2d 533, 538 (Ind. Ct. App. 2008) (holding that once a permanency plan has changed to adoption, reunification services are no longer required).

[33] As noted above, the juvenile court changed the permanency plan to adoption on July 20, 2020. Thus, DCS was no longer required to provide reunification services to Mother. *A.D.W.*, 907 N.E.2d at 538. Nonetheless, the evidence and the unchallenged findings demonstrated that, prior to the filing of the termination petition, Mother could have done much more to engage with M.S. and participate in attempts to reunify with her.

[34] The evidence showed that DCS caseworkers made countless efforts to schedule telephonic and virtual visitations with Mother and M.S. after the onset of the COVID-19 pandemic. Mother, however, did not maintain communication with DCS caseworkers, and she had a history of noncompliance with the

juvenile court's orders. As a result, Mother could not be informed and counseled about potential visits M.S. For all these reasons, Mother's claim that the termination order must be set aside because DCS failed to make reasonable efforts toward reunification fails.

B. Challenge to Specific Findings

[35] Mother contends that the following findings made by the juvenile court were not supported by the evidence:

18. Parents did complete substance abuse assessments, but never followed up with or completed the recommendations resulting from those assessments.

25. Parents did not obtain or maintain legal sources of stable income or employment.

27. Parents did attend an in-patient substance abuse facility, but did not complete the program.

28. Parents left the in-patient substance abuse facility due to the fact that they were unable to stay together in the same facility.

29. Parents never addressed their issues of domestic violence.

52. Parents have not engaged in services.

86. Mother did not have transportation, did not do a domestic violence assessment, and did not do a parenting assessment.

Appendix Vol. II at 17, 18, 22.

[36] A factual finding is clearly erroneous when there are no facts in the record or inferences to be drawn that support the finding. *In re S.P.H.*, 806 N.E.2d 874, 879 (Ind. Ct. App. 2004). And even if a factual finding is clearly erroneous, we will not reverse the judgment if the other findings of fact support the trial court's conclusions. *In re B.J.*, 879 N.E.2d 7, 20 (Ind. Ct. App. 2008), *trans. denied*. We may reverse the trial court's judgment only if its findings constitute prejudicial error. *Id.* A finding of fact is not prejudicial to a party unless it directly supports a conclusion. *See id.* (observing that because there was evidence sufficient to support the trial court's ultimate findings on the elements necessary to sustain the judgment, the erroneous finding was merely harmless surplusage that did not prejudice the complaining party and was not grounds for reversal).

[37] In this case, Mother contends that the termination order cannot stand because the juvenile court's finding that she never addressed the issues of domestic violence was clearly erroneous. Contrary to her contention, DCS caseworker Stults testified at the termination hearing that while there had "been a discussion" about a domestic violence assessment, the evidence established that Mother never completed a parental assessment. *Transcript* at 22. According to Stults, the assessment would have identified the domestic violence issues that could have been addressed. We cannot say that the juvenile court's findings about the domestic violence issue and Mother's failure to complete a parenting assessment were clearly erroneous.

[38] As for Mother’s claim that the juvenile court erred in finding that Parents had “not engaged in services,” *appendix vol. II* at 20, DCS case manager Brittney Duffer testified that

Parents have not consistently engaged in services, um, they’re—they’re not in a stable place, um, there just seems to be a lack of communication all over—all together. . . . [T]hey’ve not been able to show continued sobriety, . . . it is not believed that they’re able to provide [M.S.] with a safe and stable, structured home, at this time, and it just doesn’t seem like it would be in her best interest to go back home.

Transcript at 188 (emphasis added).

[39] Although Mother challenges the finding stating that Parents have “not engaged in services,” she does not contend that she ever completed any of the services that were offered. And Duffer’s testimony explains how Mother’s involvement in most of DCS’s services advanced from inconsistent to nonexistent. Thus, when considering Duffer’s testimony along with the remaining unchallenged findings regarding Mother’s lack of compliance with the visitation order, her failure to meet with caseworkers, and her failure to address housing, parenting, and employment issues, we reject Mother’s claim that the termination order must be set aside because the juvenile court made a general finding that she did not engage in services.

[40] As for Mother’s challenges to the findings related to her substance abuse and treatment, Mother does not allege that she ever completed any addiction and counseling programs that were offered. DCS case manager Stults testified that

her recommendations for Mother included substance abuse therapy, small group discussion, and homebased case management. Although Mother participated in substance abuse treatment sessions during the later stages of the CHINS proceedings, she never completed those programs.

[41] Mother correctly asserts that she did not continue substance abuse counseling at the Recovery Works drug treatment facility. But while she contends that an insurance issue precluded her from doing so, Stults testified that the issue could have been resolved and that Mother “could have stayed.” *Transcript Vol. II* at 52-53. However, because Mother ceased contact with DCS caseworkers, she could not be informed that any insurance problem could have been corrected. Given this evidence, it was reasonable for the trial court to conclude that Mother chose to leave the facility and discontinue her treatment program. Hence, the findings related to Mother’s substance abuse and treatment are not clearly erroneous.

[42] Finally, as for the finding that Mother “did not obtain or maintain legal sources of income or employment,” *appendix vol. II* at 18, Mother offers her lack of proper identification as an excuse for why she was not working and even blames DCS for her inability to obtain employment and housing.

[43] The evidence established that two DCS staff members assisted Mother in applying for valid identification so she could seek employment and obtain stable housing. Mother admitted that the caseworkers helped her apply for a social security card and birth certificate, “*but [she] never got her ID*” so she was

unable to seek “regular employment or acquire housing.” *Appendix Vol. II* at 100 (emphasis added). Although Mother may have participated minimally with DCS caseworkers, she did not make progress toward the goals of finding stable housing, employment, or obtaining valid identification. As a result, Mother fails to show how the juvenile court’s finding relating to employment and housing is clearly erroneous.

C. Challenges to Conclusions of Law

[44] Mother claims that DCS failed to present sufficient evidence establishing that the continuation of Mother’s parent-child relationship would threaten M.S.’s well-being, and the termination of her parental rights was in M.S.’s best interest. Thus, Mother contends that the termination order must be set aside.

[45] As discussed above, I.C. § 31-35-2-4(b)(2)(B) is written in the disjunctive. That is, DCS must prove there is a reasonable probability that the conditions that resulted in the child’s removal will not be remedied, *or* the continuation of the parent-child relationship poses a threat to the child’s well-being. *See* I.C. § 31-35-2-4(b)(2)(B)(i) and (ii). Thus, the juvenile court need only find that one of these conditions was proven by clear and convincing evidence. *K.E.*, 39 N.E.3d at 646 n.4.

[46] Because Mother—like Father—challenges only one of the juvenile court’s two conclusions pursuant to I.C. § 31-35-2-4(b)(2)(B), she effectively concedes that the termination order is not clearly erroneous and has waived the issue. *See In re B.R.*, 875 N.E.2d at 369. Moreover, we have already determined that DCS

presented sufficient evidence establishing that Father was not likely to remedy the conditions that led to M.S.'s removal from his care. DCS presented the same evidence with regard to Mother's behavior, including her failure to: a) maintain contact with DCS; b) cooperate with DCS staff; c) participate and complete services that DCS offered; and d) find suitable housing and employment. Mother similarly failed to remedy her substance abuse issues, did not submit to regularly scheduled drug screens, and visited with M.S. only five times in nearly eight months. As a result, we need not address Mother's argument that the continuation of the parent-child relationship would pose a threat to M.S.'s well-being.

[47] Finally, Mother challenges the juvenile court's conclusion that terminating her parental rights was in M.S.'s best interest. When determining whether termination of parental rights is in a child's best interests, courts look to "the totality of the evidence." *Matter of Ma.H.*, 134 N.E.3d 41, 49 (Ind. 2019). This includes a child's need for permanency because children cannot wait indefinitely for their parents to work toward preservation or reunification. *Id.* In doing so, the trial court must subordinate the interests of the parents to those of the child. *A.D.S. v. Ind. Dept. of Child Servs.*, 987 N.E.2d 1150, 1158 (Ind. Ct. App. 2013), *trans. denied*. The trial court need not wait until a child is irreversibly harmed before terminating the parent-child relationship. *Id.* Evidence establishing the unfitness of a parent may also support a court's legal conclusion that termination is in a child's best interest. *In re A.K.*, 924 N.E.2d at 221.

- [48] In this case, the evidence supports the juvenile court’s legal conclusions that there was a reasonable probability that Parents would not remedy the reasons for M.S.’s removal and placement outside their care. This same evidence supports the court’s best interest conclusion. *See id.*
- [49] In addition, this court and our Supreme Court have long held that the juvenile court’s reliance on the recommendations of DCS case managers, the CASA, and/or service providers in concluding that termination of parental rights is in the child’s best interest, is not clearly erroneous. *See In re N.G.*, 51 N.E.3d at 1173; *K.T.K.*, 989 N.E.2d at 1235-36; *In re S.S.*, 120 N.E.3d 605, 613 (Ind. Ct. App. 2019).
- [50] Here, DCS case manager Duffer and CASA Brooklyn Brown both opined that termination was in M.S.’s best interest. Brown testified that M.S. did not want any contact with Parents because they could not remain sober, and that M.S. did not wish to continue to be traumatized by them.
- [51] M.S. has remained in the same foster home since November 2019 and is “bonded” with that family. *Transcript Vol. II* at 59. M.S. has undergone therapy for her behavioral issues, is “getting better with following rules,” and her grades in school “are improving.” *Id.* at 24, 59; *Exhibit 4*. DCS’s plan for M.S. is adoption, and M.S.’s foster parents are willing to adopt her. When considering the totality of the evidence that was presented at the termination hearing, the juvenile court’s best interest conclusion is not clearly erroneous.
- [52] Judgment affirmed.

Bailey, J. and Mathias, J., concur.