

## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



---

### ATTORNEY FOR APPELLANT

Harold E. Amstutz  
Lafayette, Indiana

### ATTORNEYS FOR APPELLEE

Theodore E. Rokita  
Attorney General of Indiana

David E. Corey  
Supervising Deputy Attorney  
General  
Indianapolis, Indiana

---

## IN THE COURT OF APPEALS OF INDIANA

---

In the Termination of the  
Parent-Child Relationship of:  
L.C.R. and G.L.R. (Minor  
Children),

and

G.R.C. (Mother),

*Appellant-Respondent,*

v.

Indiana Department of  
Child Services,

February 27, 2023

Court of Appeals Case No.  
22A-JT-2351

Appeal from the Tippecanoe  
Superior Court

The Honorable Amanda E.  
Guzmán, Judge Pro Tempore

Trial Court Cause Nos.  
79D03-2112-JT-80  
79D03-2112-JT-81

**Memorandum Decision by Judge Kenworthy**  
Judges Robb and Crone concur.

**Kenworthy, Judge.**

## Case Summary

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

## Facts and Procedural History

- [2] Mother gave birth to L.C.R. in 2005 and later became pregnant with G.L.R. After G.L.R. was born in November 2020, the tissue of his umbilical cord tested positive for methamphetamine. Mother also tested positive for methamphetamine. The next month, the Indiana Department of Child Services

---

<sup>1</sup> The trial court also terminated the parental rights of each child’s biological father, neither of whom participates on appeal.

<sup>2</sup> The Appellant’s Brief is deficient in several respects, in that the brief (1) lacks pinpoint citations, contrary to Indiana Appellate Rule 22(A); (2) regularly lacks citations in support of factual statements and contentions, contrary to Appellate Rules 22(C) and 46(A); and (3) appears in a font other than those set forth in Appellate Rule 43(D). We remind counsel the Indiana Rules of Appellate Procedure “govern the practice and procedure for appeals to . . . the Court of Appeals.” Ind. Appellate Rule 1. By failing to comply with these rules, counsel risks waiving appellate arguments. *See, e.g., City of Indianapolis v. Buschman*, 988 N.E.2d 791, 795 (Ind. 2013) (identifying appellate waiver due to noncompliance with Appellate Rule 46(A)(8)(a)).

(“DCS”) filed a petition alleging Children were Children in Need of Services (“CHINS”) due to, among other things, Mother’s substance abuse.

[3] After an initial hearing, the trial court issued an order removing G.L.R. from Mother’s care and at first placing G.L.R. with his biological Father. L.C.R.—fifteen years old at the time—remained in Mother’s care. In January 2021, DCS conducted a drop-in visit at Mother’s home and found L.C.R. there with G.L.R. in her care. As to L.C.R., DCS learned of educational neglect. The trial court changed Children’s placement to relative care and appointed a Court Appointed Special Advocate (“CASA”).

[4] Ahead of a fact-finding hearing on the CHINS petition, Mother again tested positive for methamphetamine. The trial court ultimately adjudicated Children CHINS in May 2021, issuing a Dispositional Order and a corresponding Parental Participation Decree requiring Mother to participate in services. In those orders, the trial court specified Mother must, among other things, complete a Substance Use Disorder Assessment, refrain from consuming illegal substances, submit to drug screens, and participate in visitation as permitted.

[5] For several months following the CHINS adjudication, Mother did not contact the DCS Family Case Manager (“FCM”) or respond to the FCM’s attempts to contact Mother. A referred service provider also had trouble contacting Mother, eventually arranging a substance-use assessment in September 2021. Mother participated in the scheduled assessment, reporting she was still using methamphetamine and could not stop. Mother then submitted to a drug

screen, testing positive for methamphetamine. Following the assessment, the service provider recommended Mother participate in inpatient treatment, then intensive outpatient treatment. Mother drove herself to an inpatient facility in September 2021. She stayed in the inpatient facility for seventeen days, at which point she left without completing treatment. Mother reportedly left because “she didn’t get along with the other girls and . . . they were mean, and they picked on her and there was a lot of fighting, and it made her very uncomfortable, and she couldn’t take it anymore.” *Tr. Vol. 2* at 32. After Mother left inpatient treatment, a service provider tried to meet with Mother about next steps, such as submitting a negative drug screen to participate in intensive outpatient treatment. Throughout October and November 2021, Mother either cancelled or did not attend five scheduled appointments.

[6] In December 2021, DCS petitioned to terminate Mother’s parental rights. Around this time, the trial court changed Children’s placement to foster care in response to allegations L.C.R. experienced physical abuse and emotional neglect while in relative care. Children were placed in the same foster home.

[7] In February 2022, Mother met with the FCM. At the meeting, Mother admitted she would test positive for methamphetamine. Mother then tested positive. She agreed to return to inpatient treatment, where she stayed for about three weeks before again voluntarily leaving “because of similar reasons as the first time,” reportedly because “the girls were fighting a lot and it was very disturbing to [Mother] and she was unable to stick it out.” *Id.* at 34.

[8] The trial court conducted a fact-finding hearing in April and May 2022. By that time, Mother had begun attending intensive outpatient therapy, submitting her first clean urine screen on March 23. At the hearing, the FCM acknowledged Mother had “made some strides to move forward” toward sobriety, but cautioned there is “still a long way to go to ensure that her sobriety continues” in that “this is just the first time [DCS is] seeing her sober.” *Id.* at 71. When asked why termination proceedings could not be put on hold, the FCM explained that Mother had failed to communicate for months at a time, “knows she needs to stop her substance use,” has “chosen to wait until almost the last minute . . . to get sober,” and has not yet shown she could consistently stay sober. *Id.* at 73. The FCM also stated that Children not only need an environment that is “free from substances,” but they also need “their mental health and physical needs met,” all within a “safe living environment.” *Id.* at 64. In seeking termination, the FCM opined Mother “is not capable of providing the emotional support that [L.C.R.] and [G.L.R.] need.” *Id.* at 63.

[9] As of the last day of fact-finding, Mother had not seen G.L.R. since December 2020, when he was an infant. There was evidence he needed regular medical attention due to hydronephrosis, which can be fatal without proper care. As to L.C.R., Mother last spent time with L.C.R. in January 2021, later seeing her only in court. There was evidence L.C.R. needs ongoing therapeutic services in part due to “past traumas . . . from when she was a young girl living with [Mother].” *Ex. Vol. 2* at 190. L.C.R. told the FCM she is “upset and saddened by [Mother’s] behaviors,” disclosing that “when [Mother] [‘]used[‘] she would

be mean to them.” *Id.* at 122. There was also evidence Mother had recently sent L.C.R. profane and mean messages. As L.C.R. recounted: “My mom called me stupid, and then after that she called me a bitch. And then on the voice clip, she said get off my Facebook, bitch.” *Tr. Vol. 2* at 107. L.C.R. testified Mother spoke that way to her “[a] lot” when they had lived together. *Id.* at 108. L.C.R.’s therapist advised against visitation with Mother “due to the impact it would have on [L.C.R.’s] mental health,” *Ex. Vol. 2* at 158, concerned visitation would “disrupt[] [L.C.R.’s] progress,” *id.* at 157.

[10] At the hearing, L.C.R., the FCM, and the CASA each testified in favor of termination. L.C.R. said she wants her foster parents to adopt her and G.L.R. “[b]ecause it’s a better environment.” *Tr. Vol. 2* at 89. As L.C.R. explained: “If I [were] living with my mom, I’d be taking care of him.” *Id.* L.C.R. felt “it’d be better” for G.L.R. to be cared for “by people that are actual adults that will be his parents, and that will love and care for him.” *Id.*

[11] The FCM confirmed DCS has a plan of adoption, with Children placed in a pre-adoptive home. There was evidence G.L.R. is happy, his health is stable, and he has “adjusted very well to foster care.” *Ex. Vol. 2* at 190. As to L.C.R., although she had missed some school due to her mental health, she ultimately had “improved in school since she ha[d] been placed in foster care.” *Id.*

[12] In July 2022, the trial court entered orders terminating Mother’s parental rights. The court ultimately found (1) Children had been removed from the home for at least six months under the dispositional decree; (2) there is a reasonable

probability the conditions resulting in removal and ongoing placement outside the home will not be remedied; (3) there is a reasonable probability the continuation of the parent-child relationship poses a threat to Children's well-being; (4) termination of parental rights is in Children's best interests; and (5) there is a satisfactory plan for the care and treatment of Children.

[13] Mother appeals.

## Discussion and Decision

[14] The Fourteenth Amendment to the United States Constitution protects a parent's fundamental liberty interest in the "care, custody, and control" of her children. *Troxel v. Granville*, 530 U.S. 57, 65 (2000). Of course, children have their own liberty interests, *see, e.g., K.T.K. v. Ind. Dep't of Child Servs.*, 989 N.E.2d 1225, 1230 (Ind. 2013), and the State has a "traditional and 'transcendent interest in protecting the welfare of children,'" *Maryland v. Craig*, 497 U.S. 836, 855 (1990) (quoting *Ginsburg v. New York*, 390 U.S. 629, 640 (1968)). Thus, although parental rights are fundamental, those rights are "not absolute" and at some point must yield to the child's interests. *In re C.G.*, 954 N.E.2d 910, 923 (Ind. 2011); *see K.E. v. Ind. Dep't of Child Servs.*, 39 N.E.3d 641, 646 (Ind. 2015).

[15] Indiana Code chapter 31-35-2 provides the framework for termination proceedings, setting a "high bar" for termination due to the vital interests at stake. *In re Bi.B.*, 69 N.E.3d 464, 465 (Ind. 2017). Termination proceedings

begin with a petition, which must contain the specific allegations set forth in Indiana Code section 31-35-2-4(b)(2); in pertinent part, those allegations are:

(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 . . . [;]

(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 . . . [;]

(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.

[16] As to these allegations, if the court “finds that the allegations . . . are true, the court shall terminate the parent-child relationship.” Ind. Code § 31-35-2-8. In doing so, the court must enter special findings, I.C. § 31-35-2-8(c), and those findings “must be based upon clear and convincing evidence,” I.C. §§ 31-34-12-2; 31-37-14-2. Moreover, on appeal, this Court “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.” Trial Rule 52(A). In short, if “the evidence clearly and convincingly supports the findings and the findings clearly and convincingly support the judgment,” we affirm. *In re I.A.*, 934 N.E.2d 1127, 1132 (Ind. 2010) (synthesizing standards).

[17] Here, Mother does not challenge the finding Children were removed for the required timeframe under subsection (A), and we discern no evidentiary defect. Mother also does not dispute that, under subsection (D), the plan of adoption is a satisfactory plan. *See, e.g., Lang v. Starke Cnty. Off. of Fam. & Child.*, 861 N.E.2d 366, 375 (Ind. Ct. App. 2007) (noting adoption is a satisfactory plan even if DCS has not identified a potential adoptive family). Mother instead focuses on whether there is sufficient evidence supporting required findings under subsections (B) and (C). In challenging these ultimate findings, Mother does not challenge any underlying finding as to each child. Rather, Mother focuses on evidence favorable to her position. Of course, this Court does not reweigh evidence. *See* T.R. 52(A). Thus, as we discuss the ultimate findings under subsections (B) and (C), we focus on evidence supporting termination.

### Subsection (B): Unremedied Conditions

[18] We begin by examining the evidentiary support for the finding of “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.” I.C. § 31-35-2-4(b)(2)(B)(i). In making a finding on this issue, the trial court must evaluate “the parent’s fitness at the time of the termination hearing, ‘taking into

consideration evidence of changed conditions.’’ *K.E.*, 39 N.E.3d at 647 (quoting *Bester v. Lake Cnty. Off. of Fam. & Child.*, 839 N.E.2d 143, 152 (Ind. 2005)). At the same time, whenever there is evidence of changed conditions, the trial court may balance that evidence “against habitual patterns of conduct,” evaluating whether there is “a substantial probability of future neglect.” *Id.* In making its determination, the court may consider “the services offered to the parent and the parent’s response to those services.” *Id.* The court is also well within its discretion to conclude that “past behavior is the best predictor of . . . future behavior.” *In re E.M.*, 4 N.E.3d 636, 643 (Ind. 2014).

[19] In this case, it is undisputed Children and Mother remained apart due to Mother’s issues with substance abuse. On appeal, Mother relies on favorable evidence that she began making progress in early 2022. According to Mother, the court should have given her “additional time to show she can maintain her sober lifestyle” in that “an opportunity for everyone to see whether . . . Mother can sustain these changes long term would be fair.” *Appellant’s Br.* at 16.

[20] Ultimately, Mother’s arguments amount to a request to reweigh evidence, which we must decline. *See* T.R. 52(A). Here, the record discloses evidence that, for more than one year, Mother did not make sustained progress in addressing her substance abuse. During that time, Mother’s lack of engagement with services meant she was unable to see L.C.R. outside of a courtroom or see G.L.R. at all. Although Mother’s recent progress is laudable, the evidence shows Mother has a pattern of engaging with services for a short time, then allowing months to pass without communication or participation. L.C.R.’s

testimony suggests Mother was unlikely to break this pattern. Indeed, at the fact-finding hearing, L.C.R. agreed there were times Mother “was not herself.” *Tr. Vol. 2* at 109. When asked about times Mother was more like herself, L.C.R. pointedly responded: “I think she lost herself a long time ago.” *Id.*

[21] All in all, there is sufficient evidence supporting the trial court’s finding of a reasonable probability Mother will not remedy the pertinent conditions.<sup>3</sup>

### Subsection (C): Best Interests

[22] We turn to whether there is sufficient evidence supporting the finding that “termination is in the best interests of the child.” I.C. § 31-35-2-4(b)(2)(C). In making a best-interests determination, “trial courts may consider a variety of factors,” *In re M.I.*, 127 N.E.3d 1168, 1171 (Ind. 2019), such as progress toward reunification and whether there is a parent-child bond, *see id.* The court may also consider a child’s need for permanency, *In re V.A.*, 51 N.E.3d 1140, 1152 (Ind. 2016), as well as improvement in the child’s physical, emotional, and mental well-being while placed outside the home, *see K.T.K.*, 989 N.E.2d at 1235. As the Indiana Supreme Court has emphasized, “parental rights are not to be terminated merely because there might be a ‘better home’ available for the child.” *K.E.*, 39 N.E.3d at 650 (quoting *In re K.S.*, 750 N.E.2d 832, 837 (Ind. Ct. App. 2001)). At the same time, the trial court “need not wait until the child

---

<sup>3</sup> Having identified sufficient evidence supporting one finding under subsection (B), we need not address any argument concerning the alternative finding thereunder, which concerns the probability of a threat to Children’s well-being. *See* I.C. § 31-35-2-4(b)(2)(B) (requiring only that “one . . . of the following is true”).

is irreversibly harmed” or until the child’s development is “permanently impaired” before determining it is in the child’s best interests to terminate the parent-child relationship. *K.T.K.*, 989 N.E.2d at 1235 (quoting *In re C.M.*, 675 N.E.2d 1134, 1139 (Ind. Ct. App. 1997)).

[23] In challenging the sufficiency of the evidence concerning best interests, Mother again draws our attention to her recent strides toward sobriety. She directs us to caselaw supporting the proposition that “termination is intended as a last resort, available only when all other reasonable efforts have failed.” *In re I.A.*, 934 N.E.2d at 1136. According to Mother, because of her recent progress, “the case had not reached the ‘last resort stage’ as required.” *Appellant’s Br.* at 21. Mother also directs us to statements about wanting to reunite with Children. At bottom, Mother advocates for “extending the CHINS case” rather than granting the petition to terminate parental rights, asserting “delaying the termination creates no risk to the children, because they will be at the same place for the foreseeable future, termination or no termination.” *Id.* at 19.

[24] Ultimately, we must view the evidence in a light favorable to the judgment. *See* T.R. 52(A). As earlier discussed, there is ample evidence Mother would not sustain sobriety. Moreover, because of Mother’s ongoing struggles with substance abuse, she had not spent time with G.L.R. in more than one year, and could not spend time with L.C.R., who testified she wants to be adopted.

[25] Furthermore, although Mother largely focuses on progress toward sobriety, it is not as though Children need merely a sober parent. Rather, Children need an

engaged and caring parent, especially because G.L.R. has a medical issue requiring special attention and L.C.R. needs ongoing therapy to address “past traumas . . . from when she was a young girl living with . . . [M]other.” *Ex. Vol. 2* at 190. Here, the evidence indicates Mother was not ready to be the caregiver Children need. Indeed, L.C.R. testified Mother recently sent mean messages, and had spoken to L.C.R. that way “[a] lot” when they lived together. *Tr. Vol. 2* at 108. The evidence indicates the tenor of Mother’s communications conflict with L.C.R.’s therapeutic goals, indicative of unremedied parenting deficiencies that jeopardize the emotional well-being of Children. Furthermore, this case does not involve evidence of a deep parent-child bond. Rather, Children are doing well in their placement, with L.C.R., the FCM, and the CASA all testifying in favor of terminating Mother’s parental rights.

[26] In sum, there is sufficient evidence supporting the trial court’s finding that terminating Mother’s parental rights is in the best interests of Children.

## Conclusion

[27] We conclude the evidence clearly and convincingly supports the required findings under Indiana Code section 31-35-2-4(b)(2), and those findings clearly and convincingly support the judgments terminating Mother’s parental rights.

[28] Affirmed.

Robb, J., and Crone, J., concur.