

## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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## IN THE COURT OF APPEALS OF INDIANA

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In the Matter of the Termination  
of the Parent-Child Relationship  
of F.R., Father, and F.L., Child,  
F.R.,  
*Appellant-Respondent,*

v.

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

January 29, 2021

Court of Appeals Case No.  
20A-JT-1601

Appeal from the  
Montgomery Superior Court

The Honorable  
Heather L. Barajas, Judge

Trial Court Cause No.  
54D01-1911-JT-295

**Kirsch, Judge.**

[1] F.R. (“Father”) appeals the juvenile court’s order terminating his parental rights to his minor child, F.L. (“Child”). Father raises the following restated issue on appeal: whether the juvenile court’s judgment terminating his parental rights was supported by clear and convincing evidence.

[2] We affirm.

### **Facts and Procedural History**

[3] Child was born on August 20, 2016 to S.L. (“Mother”)<sup>1</sup> and Father. *Appellant’s App. Vol. 2* at 13. At the time of Child’s birth, Father was incarcerated and serving a three-year sentence in the Indiana Department of Correction. *Tr. Vol. 2* at 84. On July 28, 2018, the Indiana Department of Child Services (“DCS”) received a report alleging that Child was being neglected by Mother. *Appellant’s App. Vol. 2* at 13. On that date, Mother was arrested in her home for possession of methamphetamine, and police had found a large amount of methamphetamine within reach of Child, who was almost two years old at the time, while he was sleeping with his brother. *Id.* at 13; *Tr. Vol. II* at 38-39.

[4] Family case manager (“FCM”) Zoey Rowe (“FCM Rowe”) went to Mother’s home on July 28, 2018 to make an assessment and discovered Child asleep on the floor of the trailer within ten feet of the methamphetamine. *Tr. Vol. II* at 36,

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<sup>1</sup> At the beginning of the termination hearing held on June 18, 2020, Mother appeared telephonically with her counsel and informed the juvenile court that she intended to sign a consent to adopt along with a post-adoption agreement. *Appellant’s App. Vol. 2* at 125. Mother was then dismissed from the case, and she, therefore, does not join in this appeal. *Id.*

38, 39. Child was extremely dirty, suggesting that he had not been bathed for some time. *Id.* at 38, 39. Child did not cry or make any sounds when FCM Rowe used wipes to clean him off and later carried Child to the car. *Id.* at 39. This was concerning to FCM Rowe because Child was almost two years old and should have shown fear of strangers. *Id.* DCS removed Child from Mother's care and placed Child in foster care where he remained with the same family for the duration of the case and up until the time of the termination hearing in June 2020. *Id.* at 73-74; *Appellant's App. Vol. 2* at 14. At the time Child was removed from Mother's care, Father was still incarcerated with a projected release date of February 3, 2019. *Appellant's App. 2* at 15.

[5] On July 31, 2018, DCS filed a petition alleging Child was a Child in Need of Services ("CHINS") under Indiana Code section 31-34-1-1, alleging that Child's physical or mental condition was seriously impaired or seriously endangered as a result of the inability, refusal, or neglect of Child's parent, guardian, or custodian to supply Child with necessary food, clothing, shelter, medical care, education, or supervision and that Child needed care, treatment, or rehabilitation that Child was not receiving; and was unlikely to be provided or accepted without the coercive intervention of the Court. *Id.* at 23. Specifically, DCS alleged Mother was using methamphetamine and leaving illicit drugs within reach of Child and that Father was in prison serving a sentence related to a felony conviction for attempted residential entry. *Id.* at 23-24. On September 24, 2018, the juvenile court held a factfinding hearing on the CHINS petition, and on October 19, 2018, the juvenile court adjudicated Child to be a CHINS.

*Id.* at 49-50. The juvenile court issued its dispositional order the same day and, as Father was still incarcerated at that time, ordered him to contact DCS upon his release from prison and ordered him to “cooperate with DCS and providers.” *Id.* at 51-54.

[6] After the CHINS petition was filed, FCM Melody Lunsford (“FCM Lunsford”) took over the case. *Id.* at 40, 58. FCM Lunsford met with Father once, in September 2018, while he was still incarcerated, and Father expressed to FCM Lunsford that he was interested in being a part of Child’s life and that he “would do any services that DCS needed him to do, drug screen any time he needed to, [and] . . . do whatever it takes to get [Child] back.” *Id.* at 59. Father was released from incarceration on October 25, 2018, and he contacted FCM Lunsford within a few days of his release. *Id.* at 60. On October 31, 2018, Father met with FCM Lunsford again at a scheduled family team meeting and had his first visit with Child. *Id.* At that meeting, FCM Lunsford discussed with Father home-based case management to assist him in obtaining employment, housing, and getting him on his feet after incarceration; random drug screening because of his history of using drugs; and supervised visitations with Child. *Id.* at 61. Father later also requested therapy to deal with the death of his father, which had occurred in September 2018. *Id.* at 61, 85.

[7] After this meeting, FCM Lunsford made a referral for home-based management services for both Father and Mother since Father was living with Mother at that time; however, Father never participated in those services. *Id.* at 62. In February 2019, Father contacted FCM Lunsford about obtaining therapy to

help him cope with the death of his father, but after FCM Lunsford referred Father, he never set up an assessment. *Id.* at 63. FCM Lunsford scheduled supervised visitations with Child for Father to occur three times a week, but Father did not attend all of them. *Id.* at 69, 70. FCM Lunsford referred Father to complete a program of Fatherhood Engagement through Cummins Behavioral Health. *Id.* at 72. FCM Lunsford referred Father to complete random drug screens because of his past methamphetamine use. *Id.* at 61. At a January 2019 review hearing, FCM Lunsford asked the juvenile court to approve the services, which it did, and ordered Father to cooperate with the service providers and DCS. *Id.* at 71; *Appellant's App. Vol. 2* at 64.

- [8] After her initial appointment where Father agreed to complete services, FCM Lunsford had trouble contacting Father. *Tr. Vol. II* at 62, 63. Father was rarely at home when FCM Lunsford attempted to contact him. *Id.* at 62. FCM Lunsford was able to get Father to submit to two random drug screens, but in January 2019, Father told FCM Lunsford that would not engage in services because he believed the case was only about Mother and not him. *Id.* at 62, 63. Father further told FCM Lunsford that he did not feel he needed to participate in services because he was not present when the case was opened and the case was Mother's case, not his. *Id.* at 63. The services, however, were still available for Father for the remainder of the case. *Id.* FCM Lunsford did not have any further contact with Father before she transferred the case to FCM Calli Mayotte ("FCM Mayotte") on August 15, 2019. *Id.* at 64, 67, 103.

- [9] On June 6, 2019, Father was arrested for burglary and theft. *Appellant's App. Vol. 2* at 74, 120-21. On July 7, 2019, while Father was released on bail for those offenses, the police attempted to stop him for a traffic violation, and he fled from the police, leading them on a high-speed chase before abandoning his vehicle and fleeing on foot. *Id.* at 74, 122-23. Father's whereabouts were unknown for several weeks, and he failed to appear for a court hearing during this period of time. *Id.* at 74, 124. These actions resulted in two additional criminal cases, one consisting of two charges of Level 6 felony resisting law enforcement and one charge of Class A misdemeanor driving while suspended and another case consisting of a charge for Level 6 felony failure to appear. *Id.* at 122-24. On August 18, 2019, the police located Father, and he was arrested. *Tr. Vol. II* at 88.
- [10] After she took over the case, FCM Mayotte did not know Father's whereabouts and was unable to locate Father again until his arrest in August 2019. *Id.* at 104. While he was incarcerated, Father submitted to DNA testing which confirmed Child is his child. *Id.* at 104-05; *Appellant's App. Vol. 2* at 102. While he was incarcerated in the Montgomery County Jail awaiting trial on his new offenses, Father could have started services for life skills, parenting skills, substance abuse and individual counseling. *Tr. Vol. II* at 105. However, Father continued to refuse to participate in services. *Id.*
- [11] On November 13, 2019, DCS filed a petition to termination Father's parental rights to Child. *Appellant's App. Vol. 2* at 125. The termination fact-finding hearing was held on June 18, 2020. *Tr. Vol. II* at 24. Father remained

incarcerated from August 2019 through the date of the termination hearing on June 18, 2020. *Id.* at 88. During that time, Father had only one video-visit with Child, which occurred in March 2020. *Id.* at 81, 82. At the termination hearing, Father agreed he had been incarcerated for all but eight months of Child's life. *Id.* at 89. Father testified that he had been incarcerated three times in his lifetime and that he was facing further incarceration due to his pending criminal charges. *Id.* at 86-87, 90, 94. Father acknowledged that at the time of the hearing he was still unable to care for Child and that Child was being well cared for by the foster parents. *Id.* at 90.

[12] Carmelita Walker ("Walker") was Father's visitation supervisor from March 2019 to June 2019. *Id.* at 46. During that time, Mother and Father were living together, and Father and Mother attended visits with Child together. *Id.* at 46, 47. There were three visitations planned each week, on Mondays and Wednesdays from 4:00 p.m. to 6:00 p.m. and on Saturdays from 10:00 a.m. to 2:00 or 3:00 p.m. *Id.* at 53. Walker testified that Father did not engage with Child much during the visits because Father was often either sick or sleeping. *Id.* at 48, 49. Walker also noticed that Father would spend a considerable length of time in the bathroom during visits. *Id.* at 49. Father told Walker that he was tired during visits because he was working late hours. *Id.* at 52. Father's visits with Child ended in June 2019 when he fled from the police and his whereabouts were unknown. *Id.* at 48, 52.

[13] At the time of the termination hearing, Child was living with foster parents and had been in the same foster home since removal from Mother's care in July

2018. *Id.* at 68, 73-74. The foster mother testified that she and her husband wished to adopt Child if the juvenile court ordered termination. *Id.* at 80. When Child was first placed in the foster home, he was hyper-vigilant and it was hard for him to relax, which caused behavioral issues such as biting, spitting, and fighting. *Id.* at 74. Child was always active, grabbing things, touching things, moving, and constantly running. *Id.* Child received therapy to learn coping mechanisms for his anger, anxiety, and emotions and required significant one-on-one attention. *Id.* at 74, 76. Child's half-brother reunified with his father in June 2019, but Child sees him every other weekend. *Id.* at 75, 80. Child has hepatitis C, for which he was receiving treatment at the time of the termination hearing. *Id.* at 77.

[14] FCM Mayotte testified that termination of the parent-child relationship was in Child's best interests. *Id.* at 107. She testified that Father made minimal progress with services and did not participate in any services he could have benefited from while in jail. *Id.* at 106. FCM Mayotte also testified that Father failed to maintain much contact with Child. *Id.* She further testified that it was important for Child to have a permanent home, and Father's future, due to his incarceration and upcoming criminal trial, "is unknown." *Id.* at 106-07. FCM Mayotte explained that even if the State dismissed Father's criminal charges, Father was not able to care for Child because he would still need to find suitable and adequate employment, demonstrate sobriety while released from incarceration, find housing, provide adequate parenting and supervision, and attend to Child's behavioral needs for routine and attention, and FCM Mayotte



did not believe that Father would be able to accomplish these things. *Id.* at 107. FCM Mayotte also stated that Father still needed to address his grief from the loss of his father. *Id.* FCM Mayotte was concerned Father would not be able to remain out of jail due to his having a “lot of . . . criminal proceedings” in the past. *Id.* at 107-08. FCM Mayotte testified that she did not put referrals in for services while Father was in jail because Father told her he was applying to JCAP, a prison treatment program. *Id.* at 110.

[15] Child’s court appointed special advocate, Melissa Brush, (“CASA Brush”) testified she visited with Child regularly since January 2019 and attended two visits with Father, although for one of them he was asleep. *Id.* at 111, 112. CASA Brush testified that termination of Father’s parental rights and adoption by the foster parents was in Child’s best interests. *Id.* at 111. She testified that this was because Child had lived with foster parents for twenty-two months of his almost four years of life. *Id.*

[16] At the conclusion of the termination hearing, the juvenile court took the matter under advisement. On August 10, 2020, the juvenile court issued its findings, conclusions, and order, terminating Father’s parental rights to Child. Father now appeals.

## **Discussion and Decision**

[17] As our Supreme Court has observed, “Decisions to terminate parental rights are among the most difficult our trial courts are called upon to make. They are also among the most fact-sensitive -- so we review them with great deference to the

trial courts[.]” *E.M. v. Ind. Dep’t of Child Servs.*, 4 N.E.3d 636, 640 (Ind. 2014). While the Fourteenth Amendment to the United States Constitution protects the traditional right of a parent to establish a home and raise his child and parental rights are of a constitutional dimension, the law allows for the termination of those rights when a parent is unable or unwilling to meet his responsibility as a parent. *Bester v. Lake Cnty. Office of Family & Children*, 839 N.E.2d 143, 145 (Ind. 2005); *In re T.F.*, 743 N.E.2d 766, 773 (Ind. Ct. App. 2001), *trans. denied*. Parental rights are not absolute and must be subordinated to the child’s interests in determining the appropriate disposition of a petition to terminate the parent-child relationship. *In re J.C.*, 994 N.E.2d 278, 283 (Ind. Ct. App. 2013). The purpose of terminating parental rights is not to punish the parent but to protect the child. *In re D.P.*, 994 N.E.2d 1228, 1231 (Ind. Ct. App. 2013). Termination of parental rights is proper where the child’s emotional and physical development is threatened. *Id.* The juvenile court need not wait until the child is irreversibly harmed such that his physical, mental, and social development is permanently impaired before terminating the parent-child relationship. *Id.*

- [18] When reviewing a termination of parental rights case, we will not reweigh the evidence or judge the credibility of the witnesses. *In re H.L.*, 915 N.E.2d 145, 149 (Ind. Ct. App. 2009). Instead, we consider only the evidence and reasonable inferences that are most favorable to the judgment. *Id.* Moreover, in deference to the trial court’s unique position to assess the evidence, we will set aside the juvenile court’s judgment terminating a parent-child relationship

only if it is clearly erroneous. *Id.* at 148-49. A judgment is clearly erroneous only if the legal conclusions made by the juvenile court are not supported by its findings of fact, or the conclusions do not support the judgment. *In re S.P.H.*, 806 N.E.2d 874, 879 (Ind. Ct. App. 2004).

[19] Where, as here, the juvenile court entered specific findings and conclusions, we apply a two-tiered standard of review. *In re B.J.*, 879 N.E.2d 7, 14 (Ind. Ct. App. 2008), *trans. denied*. First, we determine whether the evidence supports the findings, and second, we determine whether the findings support the judgment. *Id.* A finding is clearly erroneous only when the record contains no facts or inferences drawn therefrom that support it. *Id.* If the evidence and inferences support the trial court's decision, we must affirm. *A.D.S. v. Ind. Dep't of Child Servs.*, 987 N.E.2d 1150, 1156 (Ind. Ct. App. 2013), *trans. denied*.

[20] Before an involuntary termination of parental rights may occur, the State is required to allege and prove, among other things:

(B) that one (1) of the following is true:

(i) There is a reasonable probability that the conditions that resulted in the child's removal or the reasons for placement outside the home of the parents will not be remedied.

(ii) There is a reasonable probability that the continuation of the parent-child relationship poses a threat to the well-being of the child.

(iii) The child has, on two (2) separate occasions, been adjudicated a child in need of services;

(C) that termination is in the best interests of the child; and

(D) that there is a satisfactory plan for the care and treatment of the child.

Ind. Code § 31-35-2-4(b)(2). The State's burden of proof for establishing these allegations in termination cases is one of clear and convincing evidence. *In re H.L.*, 915 N.E.2d at 149. Moreover, "if the court finds that the allegations in a petition described in section 4 of this chapter are true, the court *shall* terminate the parent-child relationship." Ind. Code § 31-35-2-8(a) (emphasis added).

[21] Father argues that the juvenile court erred in terminating his parental rights because DCS failed to prove by clear and convincing the required elements for termination. Father specifically contends that DCS failed to prove that the conditions resulting in the removal of Child would not be remedied because he was never given the opportunity to demonstrate that the conditions resulting in Child being removed from Mother's home would be remedied should Child be placed in his custody. Father also claims that the juvenile court never ordered services for him, except for the requirement that Father contact DCS upon his release from incarceration, which he satisfied. Father asserts that he attempted to obtain services, but because he was also required to work and attempt to support Child, as well as comply with parole, attend visitations with Child, and

maintain his own mental health, he was left with little to no time to comply with DCS services that were never court-ordered for him.

[22] Initially, we note that Father does not challenge the juvenile court’s findings of fact, so we must consider them true for purposes of review. *In re S.S.*, 120 N.E.3d 605, 610 (Ind. Ct. App. 2019) (citing *McMaster v. McMaster*, 681 N.E.2d 744, 747 (Ind. Ct. App. 1997)). Further, Father does not challenge the juvenile court’s conclusions that DCS timely filed its termination petition, that the continuation of the parent-child relationship threatened Child’s well-being, or that there was a satisfactory plan for Child’s “care and treatment” under Indiana Code section 31-35-2-4(b)(2)(A)(B and (D)). Father has therefore waived any challenge to the juvenile court’s legal conclusion as to these elements for failure to make a cogent argument. *In re B.R.*, 875 N.E.2d 369, 373 (Ind. Ct. App. 2007) (citing Ind. Appellate Rule 46(A)(8)(a)), *trans. denied*.

[23] Father challenges the juvenile court’s conclusion under Indiana Code section 31-35-2-4(b)(2)(B)(i), arguing that DCS failed to present sufficient evidence to prove that there was a reasonable probability that the conditions that led to Child’s removal would not be remedied. *Appellant’s Br.* at 14-16. The juvenile court found, however, that clear and convincing evidence also established that the continuation of the parent-child relationship posed a threat to the well-being of Child. Indiana Code section 31-35-2-4(b)(2)(B) is written in the disjunctive and requires the juvenile court to find only one of the three requirements of subsection (b)(2)(B) by clear and convincing evidence. *See* Ind. Code § 31-35-2-4(b)(2)(B); *A.D.S. v. Ind. Dep’t Child Servs.*, 987 N.E.2d 1150, 1157 n.6 (Ind. Ct.

App. 2013), *trans. denied*. Therefore, standing alone, the juvenile court's conclusion that the parent-child relationship posed a threat to the well-being of Child satisfied the requirement listed in subsection (b)(2)(B).

[24] However, there was also sufficient evidence to support the juvenile court's conclusion that a reasonable probability existed that the conditions resulting in the removal of Child were unlikely to be remedied. In determining whether there is a reasonable probability that the conditions that led to a child's removal and continued placement outside the home will not be remedied, we engage in a two-step analysis. *K.T.K. v. Ind. Dep't of Child Servs.*, 989 N.E.2d 1225, 1231 (Ind. 2013). First, we must ascertain what conditions led to the child's placement and retention in foster care, and second, we determine whether there is a reasonable probability that those conditions will not be remedied. *Id.* In the second step, the trial 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." *E.M.*, 4 N.E.3d at 643 (quoting *K.T.K.*, 989 N.E.2d at 1231). Pursuant to this rule, "trial courts have properly considered evidence of a parent's prior criminal history, drug and alcohol abuse, history of neglect, failure to provide support, and lack of adequate housing and employment." *In re D.B.*, 942 N.E.2d 867, 873 (Ind. Ct. App. 2011). In addition, DCS need not provide evidence ruling out all possibilities of change; rather, it need establish only that there is a reasonable probability the parent's

behavior will not change. *In re Involuntary Termination of Parent-Child Relationship of Kay L.*, 867 N.E.2d 236, 242 (Ind. Ct. App. 2007). “We entrust that delicate balance to the trial court, which has discretion to weigh a parent’s prior history more heavily than efforts made only shortly before termination.” *E.M.*, 4 N.E.3d at 643. When determining whether the conditions for the removal would be remedied, the juvenile court may consider the parent’s response to the offers of help. *D.B.*, 942 N.E.2d at 873.

[25] Here, the conditions that led to Child’s removal were Mother’s substance abuse and arrest and Father’s incarceration. *Tr. Vol. II* at 38-40. As a result of the CHINS adjudication, Father was ordered to contact DCS upon his release from prison and to “cooperate with DCS and providers.” *Appellant’s App. Vol. 2* at 51-54. When Father was released from incarceration on October 25, 2018, he contacted FCM Lunsford within a few days of his release and met with her on October 31, 2018, at which meeting he had his first visit with Child and discussed with FCM Lunsford home-based case management to assist him in obtaining employment, housing, and getting him on his feet after incarceration; random drug screening because of his history of using drugs; and supervised visitations with Child. *Tr. Vol. II* at 60-61. FCM Lunsford, made a referral for home-based management services for Father; however, Father never participated in those services. *Id.* at 62. In February 2019, Father contacted FCM Lunsford about obtaining therapy to help him cope with the death of his father, but after she made a referral for Father, he never set up an assessment. *Id.* at 63. FCM Lunsford scheduled supervised visitations with Child for Father

to occur three times a week, but Father did not attend all of them. *Id.* at 69, 70. Walker testified that Father did not engage with Child much during the visits he did attend because Father was often either sick or sleeping and would spend a considerable amount of time in the bathroom during visitations. *Id.* at 48, 49. Father's visits with Child ended in June 2019 when he fled from the police and his whereabouts became unknown. *Id.* at 48, 52. After her initial appointment where Father agreed to complete services, FCM Lunsford had trouble contacting Father, and he was rarely at home when she tried to contact him. *Id.* at 62, 63. In January 2019, Father told FCM Lunsford that he would not engage in services because he believed the case was only about Mother and not him. *Id.*

[26] At the time Child was removed, Father was incarcerated for serving a three-year sentence in the Indiana Department of Correction for a felony conviction. *Tr. Vol. 2* at 84; *Appellant's App. Vol. 2* at 23-24. On June 6, 2019, Father was arrested for burglary and theft, and on July 7, 2019, while Father was released on bail for those offenses, he fled from police when they attempted to stop him for a traffic violation, leading them on a high-speed chase before abandoning his vehicle and fleeing on foot, and his whereabouts were unknown for several weeks, resulting in a failure to appear for a court hearing. *Appellant's App. Vol. 2* at 74, 120-21, 122-23, 124. These actions resulted in two additional criminal cases, consisting of three felony charges and one misdemeanor charge. *Id.* at 122-124. On August 18, 2019, Father was located and arrested by the police, and he remained incarcerated awaiting trial on these new charges at the time of



the termination hearing. *Tr. Vol. II* at 88. Father continued to engage in criminal behavior throughout the duration of the case, which is inconsistent with being able to care for Child. Those who “pursue criminal activity run the risk of being denied the opportunity to develop positive and meaningful relationships with their children.” *Castro v. State Office of Family & Children*, 842 N.E.2d 367, 375 (Ind. Ct. App. 2006), *trans. denied*. Father’s choice to continue to commit criminal offenses and evade arrest demonstrates that Father was unlikely to make choices consistent with properly providing for Child’s daily needs.

[27] Father contends that he was not living with Mother at the time that Mother’s arrest resulted in the removal of Child. However, Father was incarcerated at the time of Mother’s arrest and Child’s removal from the home, and this incarceration was one reason why Child was removed from the home. Father remained incarcerated for several months after the case began, and after being released, he was later incarcerated due to new criminal activity and had been incarcerated all but eight months of Child’s life. *Tr. Vol. II* at 89. Father acknowledged that at the time of the hearing he was still unable to care for Child and that Child was being well cared for by the foster parents. *Id.* at 90.

[28] Father also asserts that the delay in determining paternity prejudiced his ability to complete services. However, Father’s contention ignores the fact that DCS referred him to services immediately upon his release from prison in October 2018. *Id.* at 62, 63. He neglected to take advantage of these services and refused to complete services because of his assertion that the case began due to

Mother's addiction and was not about him. *Id.* FCM Mayotte testified Father could have participated in services about life skills, parenting skills, counseling, and the JCAP program while in jail, but he failed to do so. *Id.* at 105. These conversations occurred in September 2019 and January 2020, which was after paternity had been determined. *Id.* at 104, 105. Therefore, even after paternity had been determined, Father neglected to participate in the services available. The evidence also showed that Father failed to develop a relationship with Child by not being engaged in visits, sleeping through visits, and missing visits in the time period from March 2019 through June 2019 and then, after June 2019, evading law enforcement and again becoming incarcerated. *Id.* at 48-49, 81, 112.

[29] Father further asserts that he attempted to obtain services, but because he was also required to work and attempt to support Child, as well as comply with parole, attend visitations with Child, and maintain his own mental health, he was left with little to no time to comply with DCS services that were never court-ordered for him. Father's argument is a request to reweigh the evidence, which we cannot do. *In re H.L.*, 915 N.E.2d at 149.

[30] The evidence presented at the termination hearing established that Father had neglected to take advantage of and refused to complete services, had not maintained consistent visitations with Child and had not developed a relationship with Child, and had continued to commit criminal offenses resulting in his incarceration at the time of the hearing with an uncertain future due to the pending criminal charges against him. "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.” *Lang v. Starke Cnty. Office of Family & Children*, 861 N.E.2d 366, 372 (Ind. Ct. App. 2007), *trans. denied*. We, therefore, conclude that the juvenile court’s conclusion that there was a reasonable probability Father would not remedy the conditions resulting in Child’s continued removal from Father’s care was not clearly erroneous.

[31] In his statement of issues and summary of the argument, Father raises the issue that DCS failed to prove by clear and convincing evidence that termination of the parent-child relationship between Father and Child was in the best interest of Child. *Appellant’s Br.* at 4, 11. However, he does not further flesh out this argument in his argument section by making a cogent argument or citing to relevant legal authority and has, therefore, waived any contention regarding whether sufficient evidence supports the juvenile court’s conclusion that termination is in the best interest of Child. *In re B.R.*, 875 N.E.2d at 373 (citing Ind. Appellate Rule 46(A)(8)(a)). Nevertheless, there was sufficient evidence to support the juvenile court’s conclusion.

[32] In determining what is in the best interests of the child, a trial court is required to look at the totality of the evidence. *In re A.K.*, 924 N.E.2d 212, 224 (Ind. Ct. App. 2010) (citing *In re D.D.*, 804 N.E.2d 258, 267 (Ind. Ct. App. 2004), *trans. denied*), *trans. dismissed*. In doing so, the trial court must subordinate the interests of the parents to those of the child involved. *Id.* Termination of a

parent-child relationship is proper where the child's emotional and physical development is threatened. *Id.* (citing *In re R.S.*, 774 N.E.2d 927, 930 (Ind. Ct. App. 2002), *trans. denied*). A parent's historical inability to provide a suitable, stable home environment along with the parent's current inability to do so supports a finding that termination is in the best interests of the child. *In re A.P.* 981 N.E.2d 75, 82 (Ind. Ct. App. 2012). Testimony of the service providers, in addition to evidence that the conditions resulting in removal will not be remedied, are sufficient to show by clear and convincing evidence that termination is in the child's best interests. *In re A.S.*, 17 N.E.3d 994, 1005 (Ind. Ct. App. 2014), *trans. denied*. A juvenile court need not wait until a child is irreversibly harmed such that his or her physical, mental, and social development is permanently impaired before terminating the parent-child relationship. *In re A.K.*, 924 N.E.2d at 224. Additionally, a child's need for permanency is an important consideration in determining the best interests of a child. *Id.* (citing *McBride v. Monroe Cnty. Office of Family & Children*, 798 N.E.2d 185, 203 (Ind. Ct. App. 2003)).

- [33] The evidence presented showed that when Child was first placed in the foster home, he was hyper-vigilant and it was hard for him to relax, which caused behavioral issues. *Tr. Vol. II* at 74. Child received therapy to learn coping mechanisms and required significant one-on-one attention. *Id.* at 74, 76. Therefore, Child needed a stable home environment with routine and structure in order to address his behavioral issues and develop emotionally. FCM Mayotte testified that termination of the parent-child relationship was in Child's

best interests and that it was important for Child to have a permanent home, and Father's future, due to his incarceration and upcoming criminal trial, "is unknown." *Id.* at 106-07. FCM Mayotte explained that, even if Father was not facing criminal charges, he was not able to care for Child because he still needed to find suitable employment, demonstrate sobriety while released from incarceration, find housing, provide adequate parenting and supervision, and attend to Child's behavioral needs for routine and attention. *Id.* at 107. CASA Brush also testified that termination of Father's parental rights and adoption by the foster parents was in Child's best interests because Child had lived with the foster parents for almost half of his life. *Id.* at 111.

[34] The trial court "need not wait until a child is irreversibly influenced by a deficient lifestyle such that her physical, mental, and social growth is permanently impaired before terminating the parent-child relationship." *K.E. v. Ind. Dep't of Child Servs.*, 39 N.E.3d 641, 649 (Ind. 2015). Child should not have to wait any longer for the opportunity to enjoy the permanency that is essential to his development and overall well-being. The juvenile court's conclusion that termination of Father's parental rights was in Child's best interests was supported by sufficient evidence.

[35] Based on the record before us, we cannot say that the juvenile court's termination of Father's parental rights to Child was clearly erroneous. We affirm the juvenile court's judgment.

[36] Affirmed.

Bradford, C.J., and May, J., concur.