

# MEMORANDUM DECISION

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## IN THE COURT OF APPEALS OF INDIANA

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In the Matter of the Involuntary  
Termination of the Parent-Child  
Relationship of:

S.H. and T.H. (Minor Children),  
and

J.R.H. (Father),

*Appellants-Respondents,*

v.

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

August 28, 2023

Court of Appeals Case No.  
22A-JT-2587

Appeal from the Ohio Circuit  
Court

The Honorable James D.  
Humphrey, Judge

Trial Court Cause No.  
58C01-2110-JT-3  
58C01-2110-JT-4

**Memorandum Decision by Judge Bailey**  
Judges Tavitas and Kenworthy concur.

**Bailey, Judge.**

## Case Summary

- [1] J.R.H. (“Father”) appeals the trial court’s order terminating his parental rights over S.H. and T.H. (collectively, “the Children”). Father raises one issue for our review, namely, whether the court erred when it terminated his rights. We affirm.

## Facts and Procedural History

- [2] Father and A.D. (“Mother”) are the parents to twin girls: T.H. and S.H., both born March 13, 2011.<sup>1</sup> In 2012, the Children were removed from Father and Mother’s care “due to physical abuse and substance abuse allegations.” Tr. Vol. 4 at 32. Thereafter, on October 3, 2012, the trial court adjudicated the Children to be Children in Need of Services (“CHINS”). *See* Ex. Vol. 5 at 116. The Children were ultimately returned to Father’s care, and the CHINS case closed. In May 2016, DCS received a report that the Children were unsupervised and that Father had been arrested on drug charges. DCS removed the Children from the care of Father and his wife. The court

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<sup>1</sup> The trial court also terminated Mother’s parental rights over the Children, but Mother does not participate in this appeal.

adjudicated the Children to be CHINS on September 16. *See* Ex. Vol. 6 at 218-19. The Children were again ultimately returned to Father’s care, and the CHINS case was again closed.

[3] On February 16, 2018, Father was arrested following an incident of domestic violence against his wife that had occurred while the Children were in the home. On February 23, DCS filed a petition alleging that the Children were CHINS due to the incident of domestic violence, because Father had admitted that he and his wife had used cocaine, because Mother was currently incarcerated, and because DCS “has had two prior cases with these children.” Ex. Vol. 1 at 85. DCS removed the Children from Father’s care on February 26. Following a fact-finding hearing at which Father admitted to the allegations, the court again adjudicated the Children to be CHINS. Thereafter, the court entered a dispositional decree and ordered Father to participate in services.

[4] Father participated in services; however, no progress was made regarding the return of the Children to his care. On October 25, 2021, DCS filed a petition to terminate Father’s parental rights over the Children. After a lengthy fact-finding hearing, the court entered extensive findings of fact and conclusions thereon. In relevant part, the court found as follows:

35. In September of 2020, [the Court Appointed Special Advocate (“CASA”)] filed a Motion to Immediately Stop Visits with father due to concerns over how the children were being affected by the visits. Trauma Assessments authored by Stacey Cornett, the children’s therapist, were subsequently filed in the

CHINS Court on 10/15/20. In this assessment, Stacey Cornett notes that the children's primary trauma was domestic violence exposure.

\* \* \*

38. The parties agree that at the time of the Fact-Finding hearing, [Father] was participating in Court-Ordered services, as required. However, despite his participation, [Father] was not able to make any progress towards reunification with his children. The testimony indicated that this is the result of two primary factors: 1) [Father's] failure to apply the lessons he is being taught regarding trauma-based parenting, and 2) the belief of the children's therapists, Stacey Cornett and Jamie Hennies and the visitation supervisor, Melissa Hughes, that the girls have been so traumatized by their exposure to domestic violence in [Father's] home, that their bond with him is irretrievably broken and beyond repair.

\* \* \*

41. Stacey testified that it is important for the girls to achieve permanency as quickly as possible. She noted that the girls have been in foster care this time for four years and that, while the girls have done well in their current foster home, they continue to have ongoing anxiety related to the uncertainty of their permanency status. Stacey testified that these problems can become greater, as the length of time it takes to achieve permanency increases.

42. Stacey noted the fact that the girls have both expressed a desire not to return to their father, and that when they discuss their relationship with their father, they exhibit visible signs that are consistent with anxiety, such as fidgeting, biting nails, wiggling around, becoming agitated, and having an intense look

in their eyes. She noted that when a child is preoccupied with worry of any sort, it keeps them from focusing on other things in a fully present way, such that they are not able to give psychic energy to peer relationships, school performance, and reaching other developmental goals.

43. Stacey noted that the children are in the latency age of development. She noted that the latency age typically encompasses 9-12-year-old children. She explained that during the latency phase, children should be focused on being independent, focusing on relationships outside home, learning to manage feelings in intense circumstances, and focusing on learning about themselves. However, for [the Children], the ongoing anxiety that they are experiencing as a result of their uncertain permanency status hinders their healthy development.

44. Stacey testified that part of her DCS referral requires her to meet weekly with Jamie Hennies, the therapist who took over the girls' care from Stacey, to discuss the children. As a result, even though she is not the children's current therapist, she has maintained active and current knowledge of the girls' progress through her weekly meetings with Jamie. Stacey testified that she has observed a consistent pattern in which the girls function better when the visits with their father cease, and in which they significantly regress during periods when visitation resumes.

\* \* \*

46. . . . Stacey testified that both girls identified their exposure to domestic violence in their father's home as the most significant source of their trauma.

47. Stacey testified that she believes that [the] girls have been too traumatized by their father to ever be able to repair the parent-child bond. She noted the fact that the girls have been out of the

home for 4 years and have received intensive therapy to address their trauma. The children are still no closer to reunifying with either parent than they had previously been. She testified that she believes termination of parental rights to be in the children's best interests because their relationship with their father is irretrievably broken and they are being negatively impacted by their lack of permanency.

\* \* \*

52. Jamie [Hennies, a Licensed Clinical Social Worker who provided therapy to the Children] testified that during her therapy time with the girls, she developed concerns that visitations with their father were negatively impacting the girls' emotional and mental health. These concerns were based upon things the girls would tell her as well as her own observations. Jamie testified that during times when she was made to visit with her father, [S.H.] would resort to aggression; has had heightened anxiety, has pushed her foster mom, punched and kicked, locked herself in a closet, hurt herself, and been heard screaming and yelling. Similarly, during times when she was made to visit with her father, [T.H.] had a constant level of anxiety and attitude with her foster parents. Jamie referred to this as "Emotional flooding" – when the distress related to the visits and anxiety became so much, that the girls were not able to tolerate it, so the behaviors came out.

53. Jamie testified that visitation had been suspended in October/November 2020 due to concerns of [the] girls' functioning. Jamie was in support of cessation of visits and she saw a positive change in [the] girls once visits stopped (overall decrease of symptoms – no aggressive outbursts from [S.H.], able to tolerate other stressful events appropriately). Due to this improvement, Jamie recommended that visits continue to be stopped, but visits resumed despite this recommendation. When visits resumed in early 2021, Jamie witnessed the reintroduction

of increased behaviors, anxiety, and emotional flooding in both girls. Jamie further testified that when the father's visitations again stopped in October of 2021, she witnessed an overall decrease in negative symptoms exhibited by the girls. Once visits stopped and the girls were no longer experiencing the anxiety caused by the visits, she noticed that the girls were then able to handle stressful situations/ tough things, and their behaviors and outlooks improved.

\* \* \*

55. Jamie noted that since visits with the father have stopped, she is no longer receiving crisis calls to provide immediate therapy to the girls or seeing behaviors that could result in hospitalizations. She noted that behaviors from the girls have essentially ceased following the termination of visits between the girls and their father and that the girls have made significant progress in the care of their current foster parents. She noted the need for permanency in the girls' lives and expressed that with a continued failure to reach permanency, this creates an increased risk of continued re-traumatization. She noted that the girls are getting older, such that there is now a more significant risk of harm to selves and others, more significant damage to [the] brain, [a] fear of developing more mental health needs, and hospitalization if the girls continue to be re-traumatized.

56. Jamie testified that she believes that DCS has provided every possible service that it has at its disposal in order to attempt to reunify the children with their parents. . . . In Jamie's professional opinion, the girls' relationship with their father is "fractured beyond repair".

\* \* \*

59. Tracey [Campagna, a family therapist] testified that she conducted a record review and met with her supervisor following these interviews. Tracey testified that the children disclosed that they were victims of trauma, they were afraid of their father, and they were not in a place to start family therapy. It was determined that based upon the children's disclosures, family therapy was contraindicated and not in the best interest of the children. . . .

60. Tracey testified that when making treatment recommendations, she considers what kids say as well as other information. In this case, she considered the information in the referral that one child was struggling to go on visits and was having emotional upset because she didn't want to go on the visit. In addition, Stacey personally observed that one of the girls would not come into the building to meet with her and had been afraid that her dad would be in the building. She also noted that she observed one girl clutching the seat and wouldn't put the window down because she didn't want to come in. . . .

\* \* \*

64. [Family Case Manager ("FCM") Lisa] Zimmerman testified that the conditions that led to removal have not been remedied, and that the children have never been returned to either parent despite 4 years of intensive services through the underlying CHINS cases

\* \* \*

66. As for the father, [FCM Zimmerman] testified that reunification with him has been unable to occur because his relationship with the girls has been damaged beyond repair. The girls have previously been removed from [Mother] once and [Father] twice and the girls have been subjected to repeated



trauma in the form of exposure to neglect, substance abuse, and domestic violence, as well as three separate removals from their home due to parental abuse and neglect.

\* \* \*

68. FCM Zimmerman testified that she does not believe it to be in the best interests of the children to reunify with their father. This is because their exposure to domestic violence, while in his care, caused the kids significant psychological trauma that they have been in counseling for 4 years now to address. This trauma has made them afraid of their father because they are afraid to make him angry. [Father] has also had prior DCS cases where he has had services and with all of those services, he has not been able to support the girls emotionally and he can't even have conversations with the girls. FCM Zimmerman shares the belief of the girls' therapists that the relationship between the girls and their father is fractured beyond repair.

69. FCM Zimmerman testified that after 4 years, DCS is no closer to reunifying the girls than they were 4 years ago. She notes that DCS has continued to offer services to reunify but we haven't been able to reduce the psychological trauma to the children, which has further eliminated reunification as a safe and healthy permanency option for the girls. FCM Zimmerman testified that she contacted over twenty different service providers in an attempt to find someone who would be willing to provide family therapy between father and the children, but no one was willing to do so. The general consensus was that it would be unethical to force the children to participate in such therapy when they had significant unresolved trauma and fear surrounding their relationship with their father.

70. FCM Zimmerman testified that at the time of the termination proceedings, the girls were the most stable and

happiest that they have ever been. [FCM Zimmerman] believes this is because visits with dad are not occurring and behaviors are lessened, foster parents help the girls use coping skills, [S.H.] is more self-confident and can advocate for herself, and the children's therapist no longer needs to provide emergency services. [T.H.] used to have problems forming relationships but now makes friends in her neighborhood and they are both bonded and getting involved in dance and cheerleading and singing and enjoying life. They still receive individual therapy.

\* \* \*

78. In January of 2021, Melissa [Hughes, a social worker who supervised visits between Father and the Children] started to provide therapeutic visits with [Father] and [the] girls. Melissa testified that the visits needed to be therapeutic because the girls didn't want to visit their father, so it was a reintroduction. The children were very uncomfortable, so the therapists tried to facilitate interventions. Visits started at Melissa's office with a 1-hour therapeutic visit. This would then be followed by a 45 minute to one hour debrief session between the girls and Melissa before the girls would go to their individual therapy sessions. Melissa testified that she maintained communication with the children's therapist during this time.

79. Melissa testified that the first visit went ok, but the girls were stressed and they discussed it in processing afterwards. They were stressed prior to the visit because they hadn't seen their father in a long time and didn't want to. When the girls talked to their father, [T.H.] controlled most of the conversation. Afterwards, when the girls discussed how they felt [S.H.] reported feeling "frozen" and emotionally exhausted and [T.H.] said that she controlled the conversation to make the visit easier for everyone else.

\* \* \*

84. Melissa testified that in her career, she has never done therapeutic visits that were so intense. She testified that [Father] was given more resources than a typical parent would have been given in the same scenario. She noted that the girls had been removed from [Father's] home, returned to his home in the prior CHINS case, and taken back out of his home again . Given their history, the girls often told Melissa that their father would “do what you want him to do while you’re watching and when you give us back, he will do it all again. We aren’t safe in his home.”

85. Melissa testified that it is her professional opinion that the relationship between [Father] and the girls will not improve with anymore visits because [Father] doesn’t put in the effort. She testified that [Father] will be physically present for services, and that service providers will tell him what actions to take to improve his relationship with the girls, but he never follows the advice of service providers or puts the lessons he is being taught into practice. . . . Melissa noted that [Father] had a counselor to help him repair his relationship with the girls and it didn’t help because he wouldn’t put in the effort or attempt to use the tools he learned in therapy to attempt to repair his relationship with the children.

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90. Dawn [Ross, a visitation supervisor] testified that the main problem preventing the case from progressing was [Father's] lack of effort. . . .

91. Dawn testified that she believed that the relationship between [Father] and his children was irreparably broken. . . .

92. Dawn noted that these children need permanency. She testified that she does not believe that it is in their best interest to reunite with their father. Based upon her observations and the lack of progress, Dawn would not recommend reunifying the girls with their father.

\* \* \*

107. The evidence and testimony are clear that following the reinstatement of visits, the girls began to once again regress in their progress and show significant signs of distress. The children did not recover and begin to make progress again until father's visits with the children were, once again, terminated. Based upon the consistent testimony of both of the children's therapists and the 2 most recent visit supervisors, there appears to be a clear pattern of emotional and psychological regression which can be directly linked to the times when father has been exercising visits with the girls, which then abates during times when visitations with the father stop. . . .

108. The evidence shows and the Court finds that the forced visitation with father has, at times, caused extreme reactions by the children. As noted, these reactions include self-harm and aggression. The evidence shows that continued attempts at reunification and forced visitation have become an act of legal torture for the children. This continued process would be without end, and with no likelihood of improvement or a successful completion.

Appellant's App. Vol. 2 at 140-157 (citations to the record omitted).

[5] Based on those findings, the court concluded that there "is a reasonable probability that the conditions that resulted in the child[ren]'s removal and the reasons for placement outside the home of the parents will not be remedied"

and that there “is a reasonable probability that the continuation of the parent-child relationship poses a threat to the well-being of the children[.]” *Id.* at 160. The court also concluded that termination of the parent-child relationship was in the best interest of the Children and that DCS had a satisfactory plan for the care and treatment of the Children, namely, the adoption of the Children by their current placement. Accordingly, the court terminated Father’s parental rights to these Children. This appeal ensued.

## Discussion and Decision

[6] Father challenges the trial court’s termination of his parental rights over Children. We begin our review of this issue by acknowledging that “[t]he traditional right of parents to establish a home and raise their children is protected by the Fourteenth Amendment of the United States Constitution.” *Bailey v. Tippecanoe Div. of Fam. & Child. (In re M.B.)*, 666 N.E.2d 73, 76 (Ind. Ct. App. 1996), *trans. denied*. However, a trial court must subordinate the interests of the parents to those of the child when evaluating the circumstances surrounding a termination. *Schultz v. Porter Cnty. Off. of Fam. & Child. (In re K.S.)*, 750 N.E.2d 832, 837 (Ind. Ct. App. 2001). Termination of a parent-child relationship is proper where a child’s emotional and physical development is threatened. *Id.* Although the right to raise one’s own child should not be terminated solely because there is a better home available for the child, parental rights may be terminated when a parent is unable or unwilling to meet his or her parental responsibilities. *Id.* at 836.

[7] Before an involuntary termination of parental rights can occur in Indiana, DCS 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. . . .

(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) (2022). DCS's "burden of proof in termination of parental rights cases is one of 'clear and convincing evidence.'" *R.Y. v. Ind. Dept of Child Servs. (In re G.Y.)*, 904 N.E.2d 1257, 1260 (Ind. 2009) (quoting I.C. § 31-37-14-2).

[8] When reviewing a termination of parental rights, we will not reweigh the evidence or judge the credibility of the witnesses. *Peterson v. Marion Cnty. Off. of Fam. & Child. (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 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 court's judgment terminating a parent-child relationship only if it is clearly erroneous. *Judy S. v. Noble Cnty. Off. of Fam. & Child. (In re L.S.)*, 717 N.E.2d 204, 208 (Ind. Ct. App. 1999), *trans. denied*.

[9] Here, in terminating Father's parental rights, the trial court entered extensive findings of fact and conclusions thereon. When a trial court's judgment contains special findings and conclusions, we apply a two-tiered standard of review. *Bester v. Lake Cnty. Off. of Fam. & Child.*, 839 N.E.2d 143, 147 (Ind. 2005). First, we determine whether the evidence supports the findings and, second, we determine 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 trial court's decision, we must affirm. *In re L.S.*, 717 N.E.2d at 208.

[10] On appeal, Father does not challenge any of the factual findings made by the trial court. When findings of fact are unchallenged, this Court accepts them as true. *L.M. v. Ind Dep't of Child Servs. (In re S.S.)*, 120 N.E.3d 605, 608 n.2 (Ind. Ct. App. 2019). As such, if the unchallenged findings clearly and convincingly support the judgment, we will affirm. *Kitchell v. Franklin*, 26 N.E.3d 1050, 1059 (Ind. Ct. App. 2015), *trans. denied*. However, Father contends that the court erred when it concluded that the reasons for the Children's removal or continued placement outside of Father's home will not be remedied and that the continuation of the parent-child relationship poses a threat to Children's

well-being.<sup>2</sup> However, as Indiana Code Section 31-35-2-4(b)(2)(B) is written in the disjunctive, we need not address Father’s contention that the conditions that resulted in the Children’s removal or continued placement outside of Father’s care will not be remedied.

[11] On appeal, Father contends that the court erred when it determined that there is a reasonable probability that the continuation of the parent-child relationship poses a threat to the Children’s well-being because he was “fully compliant with services, he maintained a suitable home and employment, and he was dedicated to providing a safe environment for the Children.” Appellant’s Br. at 25. And he asserts that “[a]ll observed interactions between Father and the Children were positive,” that the Children “smiled, laughed, and bemoaned visits endings,” and that T.H. had “asked that her visits with Father be increased.” *Id.* at 25-26. And he contends that, while the Children “infrequently reported specific things that made them uncomfortable during visits,” those were all “minor incidents that did not send up any red flags[.]” *Id.* at 26.

[12] It is well settled that a trial court need not wait until a child is irreversibly influenced by a deficient lifestyle such that his or her physical, mental, and social growth is permanently impaired before terminating the parent-child relationship. *Shupperd v. Miami Cty. Div. of Family & Children (In re E.S.)*, 762 N.E.2d 1287, 1290 (Ind. Ct. App. 2002). When the evidence shows that the

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<sup>2</sup> Father does not make a separate argument on each prong but, instead, relies on the same arguments to support both his argument under the “remedy” prong and the “threat” prong.



emotional and physical development of a child in need of services is threatened, termination of the parent-child relationship is appropriate. *Id.*

[13] Here, the trial court found that the visits with Father negatively affected the Children. Indeed, the court’s findings demonstrate that both Children “exhibit visible signs that are consistent with anxiety” when they discuss Father. *Id.* at 143. Further, the Children exhibit a “consistent pattern” where they “function better when the visits with their father cease, and in which they significantly regress during periods when visitation resumes.” *Id.* In particular, when S.H. had to visit Father, she would “resort to aggression, has had heightened anxiety, has pushed her foster mom, punched and kicked, locked herself in a closet, hurt herself, and been heard screaming and yelling.” *Id.* at 145. And T.H. “had a constant level of anxiety and attitude with her foster parents.” *Id.*

[14] Additionally, the findings demonstrate that the Children exhibited a “positive change” once visits stopped, but that there was a “reintroduction of increased behaviors, anxiety, and emotional flooding” when visits resumed. *Id.* And, once the visits stopped entirely, the Children were “able to handle stressful situations/tough things, and their behaviors and outlooks improved.” *Id.* The findings also demonstrate that over twenty different service providers declined to provide family therapy because they felt it would be “unethical” to force the Children to participate in therapy with Father when they had “significant unresolved trauma.” *Id.* at 149. And, significantly, the court found, and Father does not challenge, that “the forced visitation with father has, at times, caused

extreme reactions by the children,” including “self-harm and aggression.” *Id.* at 157.

[15] In other words, the court’s undisputed findings demonstrate that visiting Father and attempts at reunification with Father have seriously and negatively impacted the Children’s well-being to the point that they harm themselves and others. Indeed, “continued attempts at reunification and forced visitation have become an act of legal torture for the children.” *Id.* We hold that the court’s undisputed findings clearly support the trial court’s conclusion that the continuation of the parent-child relationship poses a threat to the well-being of the Children. Father’s argument on appeal is simply an invitation for this Court to reweigh the evidence and judge the credibility of the witnesses, which we cannot do.<sup>3</sup>

## Conclusion

[16] The findings of the trial court are supported by clear and convincing evidence. These findings support the trial court’s conclusion that termination of Father’s parental rights was appropriate. We therefore affirm the trial court.

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<sup>3</sup> Father twice briefly states, once toward the beginning of his argument and once in the final paragraph of his argument, that the court erred when it found that termination of the parent-child relationship was in the Children’s best interest. *See* Appellant’s Br. at 19, 28. However, Father simply contends, without more, that “[t]ermination is therefore not in the Children’s best interest.” *Id.* at 28. Father does not support that bald assertion with any cogent argument and has, therefore, waived it for our review. Waiver notwithstanding, as the court found, numerous service providers testified that termination of the parent-child relationship was in the Children’s best interests. *See* Appellant’s App. Vol. 2 at 144, 146, 148, 149, and 152.

[17] **Affirmed.**

Tavitas, J., and Kenworthy, J., concur.