

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 Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.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

Matthew J. McGovern
Fishers, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Indiana Attorney General
Indianapolis, Indiana
Monika Prekopa Talbot
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

In re the Termination of the
Parent-Child Relationship of
N.R. and L.H. (Minor Children)
and S.H. (Mother),
Appellant-Respondent,

v.

Indiana Department of Child
Services,
Appellee-Petitioner

May 23, 2023

Court of Appeals Case No.
22A-JT-2918

Appeal from the Floyd Circuit
Court

The Honorable J. Terrance Cody,
Judge

Trial Court Cause No.
22C01-2108-JT-476
22C01-2108-JT-477

Memorandum Decision by Judge May
Judges Mathias and Bradford concur.

May, Judge.

[1] S.H. (“Mother”) appeals the involuntary termination of her parental rights to her children, N.R. and L.H. (collectively, “Children”). She presents multiple issues for our review, which we consolidate and restate as:

1. Whether the trial court’s findings were clearly erroneous because they allegedly focus primarily on Mother’s historical failure to complete services and do not include information about Mother’s situation as it existed at the time of the termination hearing;
2. Whether the trial court’s findings regarding Mother’s living situation were supported by the evidence;
3. Whether the remaining trial court’s findings Mother challenges are supported by the evidence; and
4. Whether the trial court erred when it allegedly required Mother to demonstrate total recovery and compliance with services before it would refrain from involuntarily terminating her parental rights to Children.

We affirm.

Facts and Procedural History

[2] Mother gave birth to N.R. on January 26, 2010, and L.H. on March 13, 2012. On March 14, 2019, the Department of Child Services (“DCS”) received a report alleging L.H. had eleven unexcused absences from school. DCS went to Mother’s house to investigate the report. There, DCS observed “the house was

very dirty, not in conditions of [sic] a child to be living there, a lot of empty alcohol bottles[.]” (Tr. Vol. II at 223.) While DCS conducted additional interviews with Mother to complete the assessment, Children remained in Mother’s home. However, after the initial interaction, DCS noticed “[Mother] was intoxicated most of the interviews during the assessment.” (*Id.*) Mother also tested positive for “both cocaine and alcohol.” (*Id.*) Based thereon, DCS removed Children from Mother’s care on June 21, 2019, and placed Children in foster care.

[3] On June 24, 2019, DCS filed a petition alleging Children were Children in Need of Services (“CHINS”). On July 23, 2019, Mother¹ admitted Children were CHINS and they were adjudicated as such. On August 15, 2019, the trial court held its dispositional hearing. On September 26, 2019, the trial court entered its order requiring Mother to, among other things, communicate with the DCS Family Case Manager (“FCM”); allow the FCM to conduct announced and unannounced visits at Mother’s residence; keep all appointments with service providers and the FCM; secure and maintain a stable source of income and stable housing; refrain from consuming alcohol or illegal substances; obey the law; submit to random drug and alcohol screens; complete any assessments and associated services recommended by the FCM; and visit with Children. In addition, because Mother reported she had been a victim of

¹ L.H.’s father is unknown. N.R.’s father is Na.R. (“Father”). The trial court also terminated Father’s parental rights to N.R., but he does not participate in this appeal.

domestic violence, the trial court ordered her to obtain education and treatment should domestic violence recur.

[4] Based on the requirements of the trial court’s dispositional order, FCM Nathan Keller asked Mother to “complete a substance abuse assessment, a parenting assessment, and participate in a [sic] intensive services based on those assessments[.]” (*Id.* at 228.) In June or July 2019, Mother completed a parenting assessment. Around the same time, Mother completed a substance abuse assessment and was diagnosed with “alcohol use disorder, severe, in remission.” (*Id.* at 76.) Shortly following the substance abuse assessment, Mother entered an in-patient rehabilitation facility to address her addiction to alcohol. She completed treatment but “relapsed days later[.]” (*Id.* at 229.)

[5] In July 2019, FCM Keller referred Mother to Youth Villages, a provider of home-based case management services. As part of those services, Mother was required to meet two or three days a week in her home with Youth Villages to work on “everything that would’ve met her needs at the time” except “actual substance abuse treatment[.]” (*Id.* at 242.) In March 2020, Youth Villages discharged Mother from services due to noncompliance. In April 2020, DCS referred Mother to another home-based case management services provider, Lifeline. Mother did not complete those services and “was discharged for noncompliance pretty soon into it.” (*Id.*)

[6] At some point following the trial court’s order Mother completed a mental health assessment. Based on the assessment results, Mother was referred to

individual and group outpatient treatment. Mother completed two individual sessions and did not show up for four other scheduled sessions. The service provider discharged Mother on August 19, 2020, for noncompliance. Mother attended nine sessions of the required group therapy, but she also was discharged from those services for noncompliance in August 2020.

[7] Mother's dispositional order afforded Mother supervised visitation with Children. Mother participated in some in-person visits with Children, but most of her visitation occurred via phone. On these phone calls with Children, Mother appeared intoxicated and would make "false promises, like you're going to be coming home soon, and I'm doing really well" to Children. (Tr. Vol. II at 249.) Due to these behaviors and her inconsistency with visitation, the trial court suspended Mother's visitation with Children on November 9, 2020. After the suspension, FCM Keller told Mother she needed to attend a Children Family Team Meeting ("CFTM") to discuss what she could do to restart visitation. Mother did not attend. Mother last saw Children in person in 2019 and last visited with them via telephone in October 2020.

[8] In August 2020 and December 2020, Mother was offered the opportunity to participate in HOPE court, which provided "some more intensive services" and "a lot of direct case management." (Tr. Vol. II at 186.) HOPE court provided additional compliance meetings to supplement the CHINS-related meetings with Mother. Mother "neglected to appear" when required by HOPE court. (*Id.*) She completed "one assessment, but then wouldn't respond to any calls or any of the HOPE court team when they would reach out to her." (*Id.*) Mother

“did not comply” with her HOPE court case plan and was subsequently discharged from the program for noncompliance. (*Id.*) In December 2020, based on Mother’s noncompliance with services, the trial court changed Children’s permanency plan from reunification to adoption.

[9] In February 2021, Mother completed “a 30-day detox” at another in-patient rehabilitation facility. (*Id.* at 229.) In May 2021, Mother entered a third alcohol rehabilitation facility. Mother did not complete the program there because she was discharged for “showing up intoxicated to a session.” (*Id.*) After the discharge in May 2021, Mother “disappeared and no one was able to reach her[.]” (*Id.* at 187.) Mother successfully completed one round of substance abuse treatment, specifically the February 2021 program, but did not seem to be able to “apply the lessons that she’s learned” through that treatment, as she struggled to maintain sobriety throughout the CHINS and termination proceedings. (Tr. Vol. III at 9.)

[10] On August 3, 2021, DCS filed petitions to terminate Mother’s parental rights to Children based on Mother’s noncompliance with services. In October 2021, Mother reestablished contact with DCS. She told CASA Courtney Roberts that she had been unavailable since May 2021 because, at one point, “she had been held hostage in the basement of a man’s home. She was tied up and couldn’t get away.” (Tr. Vol. II at 187-8.) Mother reported she left that situation, “went to the police station, to the hospital, and to the women’s shelter.” (*Id.* at 188.) However, Mother did not provide the police report or documentation of her

stay at the women's shelter or hospital. Mother was again unavailable until December 2021 or January 2022 for unknown reasons.

[11] In June 2022, FCM Keller made an unannounced visit to Mother's reported residence to assess the appropriateness of that environment. When he arrived, he "knocked a couple of times" but no one came to the door. (*Id.* at 239.) FCM Keller attempted to contact Mother via the two telephone numbers on file but did not receive a response. FCM Keller observed "[t]here were clearly people talking inside the home" and when he knocked on the door "music had been turned up." (*Id.*) FCM Keller and CASA Roberts attempted another home assessment. CASA Roberts called Mother the morning of the assessment and Mother told CASA Roberts she was "unable to do it because she went to work that day." (*Id.* at 240.) Additionally, the person with whom Mother lived, her boss and boyfriend L.Y., indicated DCS was "not allowed to come [to his house] without him present." (*Id.*)

[12] On August 18 and 19, 2022, the trial court held fact-finding hearings on the termination petitions. FCM Keller and CASA Roberts, as well as some service providers, testified Mother did not comply with services as required by the dispositional order. CASA Roberts testified Children were doing well in their foster placement, had completed therapy, and were in a pre-adoptive home.

[13] Deanna Wagner, Children's therapist, helped Children with "coping skills to manage emotional issues, emotional awareness, behavioral management, self-advocacy, motivational inner feelings, communication skills, empathy, and

relationship skills.” (*Id.* at 145.) Wagner testified “[Children] reported that they did not want to go back to live with [Mother] because – and this was in quotes, ‘she does things that are not good,’ unquote, such as using drugs and being promiscuous.” (*Id.* at 146.) L.H. told Wagner that L.H. “wanted to live with [Mother,] but realized that [Mother] was not ready for them to live with her.” (*Id.* at 147.)

[14] CASA Roberts testified she believed termination of Mother’s parental rights was in Children’s best interests because Mother did not have the ability to provide Children with the home they need and she had not “seen a commitment or motivation to work towards that to rebuild a bond or to show the safe and suitable home environment.” (*Id.* at 201.) Additionally, CASA Roberts noted Mother had been given an opportunity to complete services toward reunification but Mother had “not taken advantage of everything that’s been offered to her.” (*Id.*) FCM Keller testified he did not believe Mother could be a “constant caregiver” for Children. (Tr. Vol. III at 7.) Additionally, FCM Keller testified the termination of Mother’s parental rights would be in Children’s best interests. On September 27, 2022, the trial court issued its order involuntarily terminating Mother’s parental rights to Children.

Discussion and Decision

[1] We review termination of parental rights with great deference. *In re K.S.*, 750 N.E.2d 832, 836 (Ind. Ct. App. 2001). We will not reweigh evidence or judge the credibility of witnesses. *In re D.D.*, 804 N.E.2d 258, 265 (Ind. Ct. App.

2004), *trans. denied*. Instead, we consider only the evidence and reasonable inferences most favorable to the judgment. *Id.* In deference to the juvenile court’s unique position to assess the evidence, we will set aside a judgment terminating a parent-child relationship only if it is clearly erroneous. *In re L.S.*, 717 N.E.2d 204, 208 (Ind. Ct. App. 1999), *trans. denied, cert. denied* 534 U.S. 1161 (2002).

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

[3] To terminate a parent-child relationship in Indiana, DCS must allege and prove:

- (A) that one (1) of the following is true:
 - (i) The child has been removed from the parent for at least six (6) months under a dispositional decree.
 - (ii) A court has entered a finding under IC 31-34-21-5.6 that reasonable efforts for family preservation or reunification are not required, including a description of the court’s finding, the date of the finding, and the manner in which the finding was made.

- (iii) The child has been removed from the parent and has been under the supervision of a county office of family and children or probation department for at least fifteen (15) months of the most recent twenty-two (22) months, beginning with the date the child is removed from the home as a result of the child being alleged to be a child in need of services or a delinquent child;
- (B) that one (1) of the following is true:
 - (i) There is a reasonable probability that the conditions that resulted in the child's removal or the reasons for placement outside the home of the parents will not be remedied.
 - (ii) There is a reasonable probability that the continuation of the parent-child relationship poses a threat to the well-being of the child.
 - (iii) The child has, on two (2) separate occasions, been adjudicated a child in need of services;
- (C) that termination is in the best interests of the child; and
- (D) that there is a satisfactory plan for the care and treatment of the child.

Ind. Code § 31-35-2-4(b)(2). DCS must provide clear and convincing proof of these allegations at the termination hearing. *In re G. Y.*, 904 N.E.2d 1257, 1260-61 (Ind. 2009), *reh'g denied*. “[I]f the State fails to prove any one of these statutory elements, then it is not entitled to a judgment terminating parental rights.” *Id.* at 1261. Because parents have a constitutionally protected right to establish a home and raise their children, the State “must strictly comply” with the statutory requirements for terminating parental rights. *Platz v. Elkhart Cnty. Dep’t of Pub. Welfare*, 631 N.E.2d 16, 18 (Ind. Ct. App. 1994).

[4] When, as here, a judgment contains specific findings of fact and conclusions thereon, we apply a two-tiered standard of review. *Bester v. Lake Cnty. Office of*

Family & Children, 839 N.E.2d 143, 147 (Ind. 2005). We determine whether the evidence supports the findings and whether the findings support the judgment. *Id.* “Findings are clearly erroneous only when the record contains no facts to support them either directly or by inference.” *Quillen v. Quillen*, 671 N.E.2d 98, 102 (Ind. 1996). If the evidence and inferences support the juvenile court’s decision, we must affirm. *In re L.S.*, 717 N.E.2d at 208. The trial court must judge a parent’s fitness to care for a child at the time of the termination hearing. *In re A.B.*, 924 N.E.2d 666, 670 (Ind. Ct. App. 2010). Evidence of a parent’s pattern of unwillingness or lack of commitment to address parenting issues and to cooperate with services “demonstrates the requisite reasonable probability” that conditions will not change. *Lang v. Starke Cnty. OFC*, 861 N.E.2d 366, 372 (Ind. Ct. App. 2007), *trans. denied*. Unchallenged findings “must be accepted as correct.” *Madlem v. Arko*, 592 N.E.2d 686, 687 (Ind. 1992).

1. Historical Findings

[5] Mother next contends several of the trial court’s findings² “focus almost exclusively on Mother’s historical failures” and do not include information about Mother’s current situation. (Br. of Appellant at 21.) The findings Mother contends are historical are:

² The trial court issued two almost-identical orders, one for each child. We quote from the order concerning L.H. unless a specific finding regarding N.R. is required for our analysis.

18. After removal, Mother entered and completed inpatient rehabilitation at Lifespring. However, she relapsed on alcohol after leaving.

19. Once back home in approximately July 2019, Mother was referred for intensive comprehensive in-home services with Youth Villages. This service took place in Mother's home two to three days per week and included supervised visitation. She participated inconsistently in this service and was discharged by the provider in March 2020 due to noncompliance.

20. After being discharged from Youth Villages, Mother was referred again for home based therapy with Lifeline. She did not participate consistently in this service and was discharged due to noncompliance.

* * * * *

25. Mother did not successfully complete individual therapy. She only attended two scheduled sessions and no-showed four sessions. As a result, she was discharged from the service on August 19, 2020 for noncompliance.

26. Mother also did not successfully complete IOT [Intensive Outpatient Treatment]. She attended nine sessions total but was discharged from the service in August 2020

* * * * *

28. After being discharged from Family Ark services, Mother did not participate in any further substance abuse treatment or services for a significant period of time.

29. Mother visited with Child very inconsistently and primarily by telephone. There were concerns during both in person and telephonic visits that Mother was impaired and speaking inappropriately with Child. As a result, DCS requested to suspend Mother's visitation with Child. The Court granted this Motion and ordered visits to be suspended until further order of the Court pursuant to an order entered on or about November 9, 2020.

30. Mother was out of compliance with all services until February 2021 when she entered Centerstone, another inpatient rehabilitation facility. She successfully completed this thirty-day program.

31. Upon completion of her second inpatient stay, Mother entered Bliss House, a sober living facility to help assist her in maintaining sobriety. Mother did not successfully complete the Bliss House program. Specifically, FCM Keller reported she was discharged in May 2021 due to showing up at the facility intoxicated. Mother claims she left on her own accord after her abusive boyfriend found her location.

32. After Mother's discharge from Bliss House, she ceased all communication with the Department until October 2021.

* * * * *

35. Mother's contact with FCM Keller was inconsistent during this period. She would reach out to FCM Keller on occasion, and if he was unable to answer, she would frequently not answer when he returned the call.

36. Her infrequent contact made it difficult to progress throughout the case, in that it was difficult to coordinate referrals and services without having reliable contact information.

* * * * *

39. Mother was also offered an opportunity to participate in HOPE Court, the Floyd County specialized intensive recovery court; however, she did not take advantage of this opportunity.

* * * * *

42. Mother did not consistently attend Child and Family Team Meetings (hereinafter “CFTM”). CFTMs are necessary so that all parties can routinely discuss how to make progress in services, receive updates on the child, and understand what is necessary for reunification to occur.

* * * * *

47. Mother’s inconsistent visitation, absence, and alcohol abuse significantly affected the bond between herself and Child, to the point that at the time it is unlikely to be repaired.

(App. Vol. II at 127-30.) While these findings do record Mother’s past lack of compliance with services, there are several unchallenged findings that address the situation around the same time the trial court held its fact-finding hearings:

37. In March 2022 Mother was referred for an additional substance abuse assessment with Associates in Counseling and Psychotherapy and completed it in the same month. Mother reported an extended period of sobriety and was recommended for individual therapy and medication management.

38. Mother has participated consistently in therapy but has not shown at least two sessions due to transportation issues.

* * * * *

40. Though Mother has completed two separate inpatient rehabilitation treatment programs, she has never successfully completed any follow up treatment.

* * * * *

51. Neither FCM Keller nor CASA Roberts has ever been able to recommend unsupervised visitation for Mother.

52. The reasons for Child's removal from Mother were never remedied, despite Mother being given every opportunity to do so. There is a reasonable probability that those reasons for removal will not be remedied. Mother has been given three years to put herself in a position where she could be a consistent, safe, and sober caregiver for Child. At this time, she cannot provide that and has shown no ability to do so.

53. Continuation of the parent-child relationship between Mother and child poses a threat to Child's well-being. Child has not seen her Mother in over two years after Mother's visits were suspended due to her inability to remain sober during visits and her inability to attend them consistently. Furthermore, Child has voiced that she does not feel safe with Mother and was exposed to alcohol abuse and domestic violence in the home. Mother's failure to participate in and complete the recommended services inhibits her ability to provide Child the safety she needs.

54. Child has made immense strides in her physical, mental, and emotional health and inserting Mother into her life would bring about a significant shock.

* * * * *

63. Child deserves to have permanency. It would not be in her best interests to give Mother more time to remedy the reasons for removal. She has been given three years to do so and her pattern of behavior and noncompliance does not indicate a likelihood she will remedy them in the future. It would cause harm to Child to keep the case open for an indeterminate amount of time for Mother to attempt to become the parent Child needs when she has a safe, permanent home available for her at this moment.

(*Id.* at 128-33.)

[6] As illustrated above, the trial court's findings did not primarily focus on Mother's historical failures and instead gave a full picture of the totality of the circumstances. As this is the standard for findings used to determine whether to involuntarily terminate a parent's parental rights, the challenged findings were appropriate to allow the trial court to render conclusions based on the entire course of the proceedings. *Cf. In re C.M.*, 960 N.E.2d 169, 175 (Ind. Ct. App. 2011) (reversal of termination of parental rights because trial court noted mother's historical failures but did not make factual findings "as to Mother's current circumstances or evidence of changed conditions" which was "akin to terminating parental rights to punish the parent"), *adhered to on reh'g* 963 N.E.2d 528 (Ind. Ct. App. 2012).

2. Findings Regarding Mother's Living Situation

[7] Mother also challenges three findings regarding DCS's inability to conduct an inspection of Mother's current living arrangements to determine if they are appropriate for Children:

43. Since Mother moved to Cox's Creek, Kentucky she has not permitted FCM Keller to observe the home environment. FCM Keller asked Mother multiple times and offered to drive to the home after work hours to accommodate her work schedule; however, Mother always told him she needed to ask Mr. L.Y. because it is his home.

44. FCM Keller attempted an unannounced visit to the home on June 29, 2022. When FCM Keller knocked on the door, he heard music playing and someone turn[ed] up the volume, but no one answered the door.

45. At the Pretrial Conference in this case on August 11, 2022, this Court ordered Mother to permit DCS and [CASA Roberts] into her home on August 16, 2022 at 1:30 PM. This home visit did not occur. Ms. Roberts called Mother the morning of the scheduled visit, and Mother informed her that she could not be at the home at the scheduled time due to being called into work. Ms. Roberts and FCM Keller then spoke to both Mother and Mr. L.Y., and Mr. L.Y. refused to allow Mother to leave the work site to allow them inside. He said he would never allow DCS or CASA into the home without being present.

(App. Vol. II at 129.) Mother contends these findings “are not even the fault of the Mother, simply her trying to stay employed with a roof over her head.” (Br. of Appellant at 24.) Mother and FCM Keller both testified L.Y. would not allow FCM Keller and CASA Roberts into his home so they could inspect to

determine if the residence was appropriate for Children. Mother has chosen to live in a place where DCS cannot determine if her living situation is appropriate for Children. Mother's argument is an invitation for this court to reweigh the evidence and judge the credibility of witnesses, which we cannot do. *See In re D.D.*, 804 N.E.2d at 265 (appellate court cannot reweigh evidence or judge the credibility of witnesses).

3. Sufficient Evidence to Other Findings

[8] Mother challenges several of the trial court's findings, arguing they are not supported by sufficient evidence. First, she challenges Finding 41, which states, in relevant part, "despite the treatment [Mother] received she did not remain sober throughout the case." (App. Vol. II at 129.) Mother acknowledges she tested positive multiple times during the CHINS and TPR proceedings but maintains the evidence does not support the trial court's finding because she testified during the termination hearing that she hadn't "had a drink right now in a year and four months." (Tr. Vol. II at 166.) While that might be true, within the year and four months Mother contends she was sober, Mother tested positive for marijuana and thus was not sober throughout the case.

[9] Additionally, Mother ignores evidence of several other times during the CHINS and termination proceedings when she was not sober. For example, FCM Keller testified Mother "relapsed days later and then never went into any other, like, follow-up treatment" after she completed a rehabilitation program for alcohol abuse. (Tr. Vol. II at 229.) FCM Keller also testified Mother was discharged from another rehabilitation program in May 2021 for "showing up

intoxicated for a session.” (*Id.*) Mother’s highlight of evidence more favorable to her argument is an invitation for us to reweigh evidence and judge the credibility of witnesses, which we cannot do. *See In re D.D.*, 804 N.E.2d at 265 (appellate court cannot reweigh evidence or judge the credibility of witnesses).

[10] Mother next challenges Findings 48 and 49 which state:

48. Mother’s only periods of sobriety in this case have come while living in controlled environments, like rehabilitation or a sober living facility. Currently Mother reports an extended period of sobriety while having lived with [L.Y.]; however, her living situation can be considered a controlled environment. Mother lives in [L.Y.’s] home and is not allowed to move about it freely, as evidenced by his refusal to allow DCS or CASA in the home. Mother is employed and paid by [L.Y.]. Mother relies solely on [L.Y.] for transportation. Mother does not have any means of communication other than through [L.Y.’s] cell phone.

49. Mother has not shown that she can remain sober outside of a controlled living environment. Furthermore, Mother has not shown an ability to live a safe, sober, independent lifestyle where she is not fully dependent on men to provide for her.

(App. Vol. II at 130.) Mother contends there

is simply no evidence to support the finding that Mother was a *defacto* hostage of her boss. The Mother testified that her boss obviously provides her with gainful employment and provides her with stable housing. No witness testified that Mother’s boss limited her freedom. There was only testimony that her boss needed sufficient notice of home visits from DCS because he would not allow DCS in the home unless he was present.

(Br. of Appellant at 30) (citations to the record omitted) (emphasis in original).

[11] FCM Keller testified L.Y. would not allow him or CASA Roberts to enter L.Y.'s residence if L.Y. was not present – this does not allow DCS to make unannounced visits to the residence as required by the trial court's dispositional order. Mother further testified L.Y. "answers [her] calls, screens [her] calls" and "when [she] can't get places it's because he can't take [her.]" (Tr. Vol. II at 120.) While it may be true that Mother is not a de facto hostage, it would seem L.Y. controls much of Mother's activities, including her ability to comply with the trial court's dispositional order. Mother's argument emphasizing her testimony is an invitation for us to reweigh evidence and judge the credibility of witnesses, which we cannot do. *See In re D.D.*, 804 N.E.2d at 265 (appellate court cannot reweigh evidence or judge the credibility of witnesses).

[12] Next, Mother challenges Finding 50 which states, in relevant part, "Mother admitted to a significant history of domestic violence with virtually every man she has allowed into her home." (App. Vol. II at 130.) Mother contends there is no evidence to support this finding because she only "reported domestic violence from two partners." (Br. of Appellant at 30.) However, Mother reported domestic violence as a component of three of her relationships and she also told CASA Roberts that she had been unavailable from May 2021 to October 2021 because, at one point, "she had been held hostage in the basement of a man's home. She was tied up and couldn't get away." (Tr. Vol II at 187-8.) Mother reported she left that situation, "went to the police station,

to the hospital, and to the women’s shelter.” (*Id.* at 188.) In addition, while Mother testified L.Y. did not abuse her, Findings 48 and 49 suggest otherwise.

[13] Moreover, Children indicated they did not want to be returned to Mother’s care in part because of the domestic violence they witnessed. While it is certainly true that there exists a possibility that not all of Mother’s romantic partners were abusive, all reported romantic partners during the CHINS and TPR proceedings engaged in some sort of domestic abuse. Mother’s argument is an invitation for us to reweigh evidence and judge the credibility of witnesses, which we cannot do. *See In re D.D.*, 804 N.E.2d at 265 (appellate court cannot reweigh evidence or judge the credibility of witnesses).

[14] Mother next challenges Findings 68 and 73, which state:

68. Mother has been unable and unwilling to provide for Child’s permanent care and treatment.

* * * * *

73. Child’s mental and emotional health would likely be damaged by inserting into Child’s life a person or persons who, in spite of being biological parents to Child, have failed to provide for Child’s physical, mental, emotional, or financial needs, despite being given significant opportunities to do so.

(App. Vol. II at 132-3.) Mother argues “there was no evidence that the Mother did not financially provide for the Children or provide them with clothing or food. Indeed, the only evidence on this issue is from the Mother who testified

that she always provided Children with clean clothes and food.” (Br. of Appellant at 31.)

[15] However, Mother did not visit regularly with Children during the CHINS proceeding and had not seen Children in over two years by the time of the termination fact-finding. Mother points to her testimony that she always provided Children with clean clothes and food, however, this statement was relevant to the family situation prior to DCS’s involvement. There is no evidence on the record of support Mother provided to meet any Children’s needs.

[16] Regarding Children’s mental and emotional needs, Wagner, Children’s therapist, testified Children had “repressed their emotions” about the trauma they faced when living with Mother, including exposure to substance abuse and domestic violence. (Tr. Vol. II at 14.) Children were both in therapy at the time of the termination hearing. Additionally, Children expressed an unwillingness to return to Mother’s care. Mother’s argument is an invitation for us to reweigh the evidence and judge witness credibility, which we cannot do. *See In re D.D.*, 804 N.E.2d at 265 (appellate court cannot reweigh evidence or judge the credibility of witnesses).

[17] Finally, Mother challenges Finding 33, which states, “Mother admitted in this time [between May 2021 and October 2021] she was held captive by her abuser, spent some time in the hospital, and then lived in a women’s shelter in Louisville, Kentucky. However, she provided no evidence to prove such

claims, despite requests from FCM Keller to provide them.” (App. Vol. II at 128.) Mother contends “[t]his finding is troubling in that it put the burden of proof on Mother to establish that she was the victim of a horrendous and continuous act of domestic violence. Moreover, it is unclear how the Mother was supposed to prove this abuse.” (Br. of Appellant at 31.)

[18] Finding 33 is related to Finding 32, which Mother does not challenge. Finding 32 states “[a]fter Mother’s discharge from Bliss House [in May 2021], she ceased all communication with the Department until October 2021.” (App. Vol. II at 127.) Because she did not contact her FCM for several months, Mother was non-compliant with that portion of the trial court’s dispositional order. Mother told the trial court the absence occurred because she had been abused for an extended period of time and spent time in the hospital and women’s shelter. The trial court could decide whether to believe Mother’s testimony. The trial court as the finder of fact was best positioned to decide whether Mother’s alleged reasons for not contacting DCS were truthful, and Mother’s argument is an invitation for us to reweigh the evidence and judge witness credibility, which we cannot do. *See In re D.D.*, 804 N.E.2d at 265 (appellate court cannot reweigh evidence or judge the credibility of witnesses).

4. Children’s Permanency

[19] Mother argues the trial court misapplied the law when it allegedly required Mother to be “in total compliance with DCS or in total recovery to avoid termination[.]” (Br. of Appellant at 25.) In support of her argument, Mother cites *In re O.G.*, 65 N.E.3d 1080 (Ind. Ct App. 2016), *trans. denied*, in which this

court reversed the termination of the father’s parental rights because the father “made multiple attempts to contact DCS and reengage with services, notwithstanding complete radio silence from the FCM during his periods of incarceration, and has been rebuffed at every turn. He deserved a genuine chance to prove that he can parent his child.” *Id.* at 1096. Additionally, this court noted DCS “made little effort” to maintain contact with the father or engage him in services as ordered by the trial court. *Id.*

[20] Such is not the case here. The trial court’s findings illustrate Mother rebuffed FCM Keller’s consistent communications. Mother was missing for a period of time during the CHINS proceedings and often would not answer her phone. Additionally, DCS presented Mother with several opportunities to address her alcohol addiction and, despite some success, Mother repeatedly relapsed when not in a controlled environment. At the time of the termination hearings, Children had been removed from Mother’s care for three years. Children have not seen Mother for two years and have communicated an unwillingness to return to her care. Children cannot be left to “languish, forgotten, in custodial limbo for long periods of time without permanency[.]” *Baker v. Marion Cnty. OFC*, 810 N.E.2d 1035, 1040 n.4 (Ind. 2004) (internal quotation omitted). Mother is not required to demonstrate perfection or complete recovery, however, the extent of Mother’s effort to complete services and maintain a relationship with Children is certainly a factor used by the trial court to determine if termination is appropriate. *See, e.g., In re O.G.*, 65 N.E.3d at 1096 (reversing child’s adjudication because father made multiple attempts to obtain

and complete services and showed a genuine interest in reunification with his child). Mother did not demonstrate she was able or willing to meet Children's needs as required to achieve reunification, and thus the trial court did not err when it involuntarily terminated her parental rights to Children.

Conclusion

[21] The trial court did not base its decision on historical facts only; instead it made findings regarding the family situation during the CHINS and termination proceedings as well as at the time of the termination hearing. Further, Mother's arguments regarding her living situation at the time of the termination hearing were also invitations to reweigh the evidence and judge the credibility of witnesses, which we cannot do. Additionally, Mother's arguments challenging several of the trial court's findings are invitations for this court to reweigh the evidence or judge the credibility of witnesses, which we cannot do. Finally, the trial court did not demand complete recovery but made findings regarding Mother's effort to complete services and maintain a relationship with Children when determining whether to terminate her parental rights. Accordingly, we affirm.

[22] Affirmed.

Mathias, J., and Bradford, J., concur.