

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.



ATTORNEY FOR APPELLANT

R. Patrick Magrath
Alcorn Sage Schwartz & Magrath, LLP
Madison, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana
Robert J. Henke
Assistant Section Chief, Civil
Appeals
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

In the Matter of the Termination
of the Parent-Child Relationship
of G.E., Mother, and S.J. and
Q.J., Minor Children,

G.E.,

Appellant-Respondent,

v.

Indiana Department of Child
Services,

Appellee-Petitioner.

September 17, 2021

Court of Appeals Case No.
21A-JT-472

Appeal from the
Scott Superior Court

The Honorable
Marsha Owens Howser, Judge

Trial Court Cause Nos.
72D01-2003-JT-32
72D01-2003-JT-33

Kirsch, Judge.

[1] G.E. (“Mother”) appeals the juvenile court’s order terminating her parental rights to her minor children, S.J. and Q.J. (collectively, “the Children”).

Mother raises the following restated issue on appeal: whether the juvenile court’s judgment terminating her parental rights was supported by clear and convincing evidence.

[2] We affirm.

Facts and Procedural History

[3] Mother and T.J. (“Father”)¹ are the biological parents of the Children -- twins born on November 23, 2012. *Appellant’s App. Vol. 2* at 220; *Tr. Vol. I* at 21. On August 6, 2018, the Indiana Department of Child Services (“DCS”) received a report alleging that Mother and Father (collectively, “Parents”) were involved in “a domestic violence incident in front of [the Children].” *Index of Exhibits Vol. I* at 21.² Law enforcement was called to the home, and Parents were arrested, taken into custody, and incarcerated in the county jail. *Id.* Parents were each charged with domestic battery committed in the presence of a minor, and no-contact orders were issued prohibiting Parents from having contact with

¹ Father signed consents to the Children’s adoptions approximately one week before the termination hearings took place. *Appellant’s App. Vol. 2* at 220; *Tr. Vol. I* at 16. Therefore, Father does not join in this appeal. As such, we will confine the majority of the facts and procedural history to that which is pertinent to Mother’s appeal.

² Because the *Index of Exhibits Vol. I* contains substantially similar pleadings and orders for each of the Children, we cite to only one set of pleadings and orders.

the Children. *Id.*; *Tr. Vol. I* at 22; *Appellant's App. Vol. 2* at 221. On August 7, 2018, the Children were removed from Parents' care and placed in kinship care. *Tr. Vol. I* at 22-23.

[4] On August 8, 2018, DCS filed a petition alleging the Children were children in need of services ("CHINS"). *Ind. of Exs. Vol. I* at 20-23; *Tr. Vol. I* at 23. That same day, the juvenile court held an initial hearing and confirmed the removal and detention of the Children. *Ind. of Exs. Vol. I* at 25; *Tr. Vol. I* at 23. On October 2, 2018, the juvenile court held a factfinding hearing on the CHINS petition. *Ind. of Exs. Vol. I* at 29; *Tr. Vol. I* at 24. The Children were adjudicated as CHINS based on Mother's admissions that she had pending criminal charges for domestic violence committed in front of the Children; no-contact orders were in place that prohibited Parents from having contact with the Children; the Children were CHINS; and the juvenile court's coercive intervention was necessary. *Ind. of Exs. Vol. I* at 29-30; *Tr. Vol. I* at 24.

[5] On October 31, 2018, the juvenile court issued a dispositional order, inclusive of a parent participation plan, which directed Mother to do, among other things, the following: (1) "[c]ontact the Family Case Manager ["FCM"] every week to allow the [FCM] to monitor compliance with this [CHINS] matter"; (2) "[n]otify the [FCM] of any changes in address . . . within five (5) days of said change"; (3) "[i]f a program or programs is/are recommended by the [FCM] or other service provider, enroll in that program [within] a reasonable time, not to exceed thirty (30) days and participate in that program . . . without delay or missed appointments"; (4) keep all appointments "with any service

provider, DCS, or CASA/GAL”; (5) “[s]ign any releases necessary for the [FCM] to monitor compliance with the terms of the court’s order”; (6) “[m]aintain suitable, safe and stable housing with adequate bedding, functional utilities, [and] adequate supplies of food”; (7) “[s]ecure and maintain a legal and stable source of income”; (8) “[n]ot consume, manufacture, trade, distribute or sell any illegal controlled substances, and . . . only take prescription medication for which a valid and current prescription exists”; (9) “[n]ot consume any alcohol”; (10) “[o]bey the law”; (11) “[c]omplete a parenting assessment and successfully complete all recommendations”; (12) “[c]omplete a substance abuse assessment and follow all treatments and successfully complete all treatment recommendations”; (13) “[s]ubmit to random drug screens . . . within one (1) hour of request”; “[a]ny request for [a] drug screen that is not completed in a timely manner will result in a positive result indication”; (14) “[m]eet all personal medical and mental health needs in a timely and complete manner”; (15) “[n]ot commit any acts of domestic violence”; (16) “[n]ot permit [Father] to have any access to or communication with [Mother] and the [Children]”; (17) “[a]ttend all scheduled visitations with the [Children] and comply with all visitation rules and procedures”; (18) “participate in individual therapy”; (19) “participate in home-based services”; and (20) “[s]hould [Mother] test positive on a drug screen, she will complete [an alcohol and drug (“AOD”)] assessment and complete any recommended services[.]” *Ind. of Exs. Vol. I* at 32-34.

[6] On February 26, 2019, the juvenile court held a periodic review hearing, at which it was reported that Mother was participating in parenting education, individual therapy, supervised visitation, and random drugs screens. *Id.* at 39. However, it was also reported that Mother had tested positive for amphetamine and methamphetamine on February 22 and March 5, 2019. *Id.* Between January and August 2019, Mother tested positive for amphetamine and methamphetamine five times and refused to submit to drug screens sixteen times. *Id.* at 46. Between January and May 2019, Mother cancelled visitation with the Children six times. *Id.*

[7] A permanency hearing was held on August 20, 2019. *Id.* at 45. On October 10, 2019, the juvenile court issued its permanency order, finding that Mother failed to participate in all court-ordered services or services recommended by her service providers, failed to complete an AOD, refused to submit to drug screens on a number of occasions, and continued to deny her substance abuse despite having tested positive for methamphetamine. *Id.* at 46. Regarding Mother's drug screens, the juvenile court specifically found that between January and August 2019, Mother tested positive for amphetamine and methamphetamine five times and refused to submit to drug screens sixteen times. *Id.* Regarding visitation with the Children, the juvenile court found that between January and May 2019, Mother cancelled visitation with the Children six times. *Id.* In the same order, the juvenile court approved the permanency plan for the Children of reunification with a concurrent plan of termination of parental rights and adoption. *Id.* at 47.

[8] On November 20, 2019, DCS filed a motion to temporarily suspend Mother's visitation with the Children -- based upon Mother's numerous positive drug screens for methamphetamine and her refusal to submit to a number of drug screens -- and asked the juvenile court to suspend visitation until Mother consistently screened negative for illegal substances. *Id.* at 49-50. Mother continued to test positive for illegal substances. Between August and November 2019, Mother tested positive for amphetamine and methamphetamine ten times and refused to submit to drug screens eleven times. *Id.* A hearing on the matter was held on November 21, 2019, and on December 5, 2019, the juvenile court granted DCS's motion. *Id.* at 67.

[9] Also on December 5, 2019, the juvenile court issued a permanency order, finding that while Mother had partially complied with the Children's case plan, she had failed to obtain employment and continued to test positive for methamphetamine. *Id.* at 70. The juvenile court noted that Our Place Drug and Alcohol Treatment Center, one of Mother's service providers, recommended that Mother complete a psychological evaluation "and that [Mother] should obtain sobriety before participating[.]" *Id.* at 70. The juvenile court further noted that the treatment center recommended partial hospitalization for Mother, but "[Mother] state[d] she does not need treatment . . . [and] ha[d] refused numerous drug screens and continue[d] to deny substance use." *Id.* The permanency plan remained reunification with a concurrent plan of termination of parental rights and adoption. *Id.*

- [10] On January 10, 2020, the juvenile court ordered that visitations between the Children and Mother would remain suspended. *Id.* at 72. Between December 2019 and April 2020, Mother tested positive for amphetamine and methamphetamine eight times. *Exhibits Vol. II* at 71, 74, 76, 79, 82, 84, 86, 98. On March 2, 2020, DCS filed petitions to terminate Mother’s parental rights as to the Children. *Appellant’s App. Vol. 2* at 28-31.
- [11] A subsequent permanency hearing was held on June 4, 2020. *Ind. of Exs. Vol. I* at 74. On June 10, 2020, the juvenile court found that Mother had not complied with the Children’s case plan and that Mother “finally completed the substance abuse treatment” but only after DCS filed its progress report on April 28, 2020, and after many requests by the FCM to complete the treatment. *Id.* at 75. The juvenile court approved a modification of the Children’s permanency plan to a sole plan of termination of parental rights and adoption and granted DCS’s request that Mother’s services be suspended. *Id.* at 75-76; *Appellant’s App. Vol. 2* at 229.
- [12] Between June and December 2020, the FCM traveled to Mother’s home fifteen times to administer drug screens. *Tr. Vol. I* at 30-31. However, Mother submitted to only one drug screen -- on October 22, 2020 -- which showed a positive result for amphetamine and methamphetamine. *Exs. Vol. II* at 141.
- [13] On January 21 and February 11, 2021, the juvenile court conducted hearings on the petitions to terminate Mother’s parental rights as to the Children. *Tr. Vol. I* at 2, 13. Autumn Fox (“Fox”), a case worker with Ireland Home Based

Services, testified and told the juvenile court that she provided Mother with homebased casework services from October 2019 until April 2020, supervised visits between Mother and the Children, worked with Mother on her parenting skills, and attempted to assist Mother with obtaining employment. *Id.* at 64-65, 66. Fox testified that the services ended because Mother “wasn’t available” to meet with Fox. *Id.* at 66. Fox explained to the juvenile court that Mother “started to kind of lag off and start[ed] missing [the visitations], and, various things were happening, and so, [the visitations] got put on hold, and then, after they got put on hold, . . . I found out [the visitation services] got closed out.” *Id.* at 72. As for Mother’s employment, Fox testified that Mother never provided her with proof of employment. *Id.* at 67.

[14] FCM Jessica Guthrie (“FCM Guthrie”), who was assigned to Mother’s case in January 2019, testified that it was in the Children’s best interests that Mother’s parental rights be terminated and the Children be adopted by their kinship family. *Id.* at 43-44, 45. FCM Guthrie explained that she did not have “very much participation out of [Mother]”; Mother continued to deny her methamphetamine use and her need for services; and the FCM could not obtain mental health services for Mother because Mother could not maintain sobriety. *Id.* at 44. When asked what made her believe that Mother would be unable to maintain sobriety going forward, the FCM testified that it was Mother’s pattern of providing clean drug screens for a month or two but then relapsing. *Id.* Regarding whether continuing the parent-child relationship between Mother and the Children would pose a threat to the Children’s well-being, FCM

Guthrie testified in the affirmative. *Id.* at 45. She explained to the juvenile court that once the visitations stopped between Mother and the Children, the Children no longer needed therapy. *Id.*

[15] Court Appointed Special Advocate Lena Reynolds (“CASA Reynolds”) testified that termination of Mother’s parental rights was in the Children’s best interests because of Mother’s constant drug use and her “inconsistencies[.]” *Id.* at 76. CASA Reynolds told the juvenile court that the Children had been in kinship care for “more of [their lives] than [Mother] or [Father] have had them.” *Id.* She testified that the Children were “opening up more” to their kinship family and “explaining stuff that has happened in their li[ves,]” specifically, the trauma the Children experienced from living with Mother and Father. *Id.* at 76-77. CASA Reynolds further testified that continuing the parent-child relationship between Mother and the Children would pose a threat to the Children’s well-being. *Id.* at 77.

[16] Mother testified that the Children were removed from her care as a result of the domestic violence incident with Father. *Id.* at 91. She told the juvenile court that she was sentenced to one year of probation, which she successfully completed, and was ordered to attend domestic violence/anger management classes, which she also successfully completed. *Id.* at 92; *see also Tr. Vol. I* at 50. She further testified that the no-contact orders that prevented her from having contact with the Children had been removed. *Tr. Vol. I* at 93. When asked about her substance abuse, Mother testified that the last time she used methamphetamine was in October 2020. *Id.* However, she admitted that, at

the time of the hearing, she was only participating in individual therapy to address her substance abuse issues but was not participating in any formal substance abuse treatment, even though service providers had recommended that Mother participate in formal treatment. *Id.* at 94-95. Mother testified that she did complete “some inpatient [substance abuse] treatment” but admitted that she tested positive for methamphetamine after completing the program. *Id.* at 95, 96. She stated, “I’ve tried to . . . keep sobriety, and keep clean, and fight for my children[, b]ut I’m having my weak moments.” *Id.* at 96. Mother told the juvenile court that, at the time of the hearing, she was being treated by a primary care physician, was attempting to obtain referrals from her doctor for a psychiatric evaluation and was seeing a therapist “[t]wice a week[,] off and on[.]” *Id.* at 98, 100, 111. Regarding employment, Mother testified that she was unemployed and that Father supported her financially. *Id.* at 104-05. She further testified that although she has a CNA license, she was unable to “[get] back [into nursing home employment]” because, according to Mother, her domestic violence conviction labeled her as “too violent to hire[.]” *Id.* at 105.

[17] At the conclusion of the termination hearing, the juvenile court provided oral findings supporting its determination that termination of Mother’s parental rights was in the best interests of the Children, specifically:

I’m going to find that the reasons for the removal . . . have not been remedied, nor are they likely to be remedied and the initial reasons for the removal were domestic . . . violence, and that [Parents] were both arrested, and . . . ultimately [Mother] pled guilty and did some probation and time over, the domestic violence situation that the [C]hildren were a party to or present . .

. when that occurred. But also there's been . . . substantial substance abuse throughout this two and a half year period that [the Children have] been removed from the home. And so I'm going to find that it's not likely to be remedied as, we are no[w] two and a half years later, and although, there have been sometimes that we've had these negative . . . test results for [Mother], . . . that's usually just to be followed by another month or two or three . . . of drug use and positive screens. So we've got this continued pattern of drug abuse, and b[y Mother's] own admission today, that that's . . . the drug of methamphetamine. . .

Id. at 118-19. The juvenile court continued:

I'm going to find that . . . also continuing the parent-child relationship at this time, two and a half years after [the Children have] been removed, and now they're eight years old, and thriving, would be a threat to their well-being . . . if the Court allowed that parent-child relationship to continue on today. . . . [A]lthough [Mother] has said she has a home that she currently lives in with the [C]hildren's biological father, . . . she's unsure of what the certainty of that relationship will be[;] they're not married[;] . . . she solely relies on him for financial support right now . . . if [the Children] would go back to her. . . . [I]t's also not apparent to the Court that . . . even though there were a few [clean] drug screens right in a row, . . . January 19th, February 2nd, February 4th, in this case, . . . there's not a showing to the Court that that pattern of drug abuse that we've seen over the last two and a half years is corrected really at this time. . . . [S]o I'm going to find for all those reasons . . . it is in the best interest of the [C]hildren today, to terminate . . . [Mother's] parental rights and that parent-child relationship.

Id. at 119-21.

[18] The juvenile court issued its written termination orders on February 22, 2021. *Appellant's App. Vol. 2* at 18, 200-218, 219-237. Mother now appeals.

Discussion and Decision

[19] 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[.]” *In re E.M.*, 4 N.E.3d 636, 640 (Ind. 2014). 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).

[20] While the Fourteenth Amendment to the United States Constitution protects the traditional right of a parent to establish a home and raise his or her 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 her responsibility as a parent. *Bester v. Lake Cnty. Off. of Fam. & Child.*, 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. *T.F.*, 743 N.E.2d at 773. 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).

[21] 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*.

[22] Before an involuntary termination of parental rights may occur, among other requirements, DCS is required to allege and prove:

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

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

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

being of the child.

....

(C) that termination is in the best interests of the child[.]

Ind. Code § 31-35-2-4(b)(2)(B)-(C). DCS’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).

[23] On appeal, Mother argues that DCS failed to present clear and convincing evidence to support the termination of her parental rights under Indiana Code section 31-35-2-4(b)(2)(B),(C) because 1) there was a reasonable probability that the conditions that resulted in the Children’s removal would be remedied and the continuation of the parent-child relationship would not pose a threat to the Children’s well-being, and 2) termination was not in the Children’s best interests. Mother concedes that DCS presented clear and convincing evidence to satisfy its burden of proof under subsection (b)(2)(A), concerning the period of removal from home and efforts at reunification, and subsection (b)(2)(D), concerning whether there is a satisfactory plan for the care and treatment of

Children. And, we note that of the juvenile court's 116 findings of fact,³ Mother challenges just one -- finding number 36 -- maintaining that the juvenile court's finding that she failed to visit with the Children after October 2019, "is not fully supported by the record or, at a minimum, is not the full picture." *Appellant's Br.* at 15. As to the remaining unchallenged findings, for purposes of review, we "must accept these findings as true." *In re S.S.*, 120 N.E.3d 605, 610 (Ind. Ct. App. 2019); *see also Madlem v. Arko*, 592 N.E.2d 686, 687 (Ind. 1992) (Unchallenged findings "must be accepted as correct.").

[24] We observe that subsection (b)(2)(B) of the termination statute is written in the disjunctive. Thus, DCS was required to establish only one of the two requirements of the section by clear and convincing evidence. *See In re L.S.*, 717 N.E.2d 204, 209 (Ind. Ct. App. 1999), *trans. denied, cert denied*, 534 U.S. 1161 (2002). Nevertheless, the juvenile court determined that both conditions of this subsection had been satisfied. We, however, confine our analysis to the determination of whether the juvenile court committed clear error in concluding that there is a reasonable probability that continuation of the parent-child relationship posed a threat to the Children's well-being.

³ Of the juvenile court's 116 paragraphs designated as findings of fact, eleven of those paragraphs are citations to case law or statutes regarding termination of parental rights and one paragraph provides that any matter designated as a finding of fact that is found to be a conclusion of law is deemed a conclusion of law. *Appellant's App. Vol. 2* at 233-236.

The Children's Well-Being

[25] Mother contends the juvenile court committed clear error in determining there is a reasonable probability that the continuation of the parent-child relationship posed a threat to the well-being of the Children because even though Mother struggled with substance abuse, maintaining steady employment, and consistent communication and attendance, she made “substantial efforts” and “participated in almost all services she was given.” *Appellant's Br.* at 14.

Mother maintains that she bonded with the Children during the visitation period, continued to “seek out and participate in” individual therapy, resided in the same home for two and one-half years, successfully completed probation after pleading guilty to the domestic violence charge, “continu[ed] to try” to obtain a referral for psychological evaluation, and continued to seek steady employment. *Id.* at 14, 17. Mother asserts that her “compliance and efforts outweighed her struggles with substance abuse relapse and should have led to the denial of the [p]etition for [t]ermination.” *Id.* at 14.

[26] When considering whether clear and convincing evidence supports the juvenile court's determination that a continued parent-child relationship threatens the Children's well-being, it is well-settled that clear and convincing evidence need not reveal that “the continued custody of the parents is wholly inadequate for the child's very survival”; rather, it is sufficient to show by clear and convincing evidence that “the child's emotional and physical development are threatened” by the parent's custody. *Bester*, 839 N.E.2d at 148 (quoting *Egley v. Blackford Cnty. Dep't of Pub. Welfare*, 592 N.E.2d 1232, 1233, 1234 (Ind. 1992)). “It is well

established that ‘a 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.’” *In re G.F.*, 135 N.E.3d 654, 661 (Ind. Ct. App. 2019) (quoting *In re E.S.*, 762 N.E.2d 1287, 1290 (Ind. Ct. App. 2002)).

[27] Here, the evidence clearly established that continuing Mother’s parent-child relationship with the Children posed a threat to the Children’s well-being. Throughout the CHINS and termination proceedings, Mother was inconsistent in participating in services and in visiting with the Children, unwilling to obtain employment, in denial about her drug use, and unable to maintain sobriety. For example, in November of 2018, Mother received a referral to Ireland Home Based Services for services involving visitation with the Children and homebased case work. *Tr. Vol. I* at 28. Regarding visitations with the Children, Mother’s caseworker testified that “for a long time,” Mother was “doing very well” with the visits, yet Mother repeatedly tested positive for amphetamine and methamphetamine. *Id.* at 37; *Ind. of Exs. Vol. 1* at 46, 49-50. And, in October 2019, Mother’s visits with the Children “fell off,” and she “missed a lot of visits.” *Tr. Vol. I* at 37. In November 2019, DCS requested that the juvenile court suspend Mother’s visitation with the Children, based upon Mother’s numerous positive drug screens for methamphetamine and her refusal to submit to a number of drug screens. *Ind. of Exs. Vol. I* at 49-50. The juvenile court granted the request and temporarily suspended the visitations; however, the

suspension became permanent, and visitation with the Children did not resume. *Tr. Vol. I* at 39-40.

[28] Mother participated in homebased case work services to improve her parenting skills and help her in obtaining employment, but the services stopped in April 2020. *Tr. Vol. I* 64-65. Caseworker Fox testified that she and Mother stopped meeting because Mother “wasn’t available[,]” and Mother’s schedule and the caseworker’s schedule did not coincide any longer, or “[Mother] had just various reasons” *Id.* at 66. Fox further testified that Mother was never able to obtain employment. *Id.* at 67.

[29] In January of 2019, Mother received a referral to Family Community Team Partners where she completed a clinical assessment. *Id.* at 28, 30. It was recommended that Mother receive a psychological evaluation and be monitored for paranoid behaviors, but the evaluation could not be completed because Mother would not submit to drug screens, and consistent, negative drug screens were a prerequisite to Mother receiving the evaluation. *Id.* at 30-31, 55.

[30] Throughout the proceedings, Mother continued to test positive for amphetamine and methamphetamine. Between January 2019 and October 2020, Mother submitted to forty-nine drug screens – twenty-five of which returned positive results. *Appellant’s App. Vol. 2* at 227. She failed to submit to an additional thirty-eight screens, and any request for a drug screen that was not completed in a timely manner was treated as a positive result, per the juvenile court’s dispositional order. *Id.*; *Ind. of Exs. Vol. I* at 33.

[31] Mother received referrals for substance abuse treatment services. While Mother was able to complete assessments and some treatment services offered by the providers, she denied that she was using illegal substances -- even though she continued to test positive for illegal substances. *Tr. Vol. I* at 28, 29, 30, 36, 51. In June 2020, the juvenile court granted DCS's request that Mother's services be suspended. *Ind. of Exs. Vol. I* at 76; *Appellant's App. Vol. 2* at 229.

[32] The Children, like Mother, were referred to homebased services – specifically, individual therapy to help the Children process their “emotions and fears[.]” *Exs. Vol. II* at 45. S.J., in particular, was exhibiting signs of withdrawal before and after visits with Mother. *Id.* The progress report for the services stated that the Children had progressed in their therapy such that they “completed all therapy goals [including] improving communication [and] behaviors and processing traumas[.]” *Id.* The report further stated that the kinship placement parents “acknowledged the [C]hildren’s behaviors have improved and [the Children] are better equip[ped] when handling disappointments surrounding inconsistent visitations with [Parents].” *Id.*

[33] FCM Guthrie agreed that continuing the parent-child relationship between Mother and the Children would threaten the Children’s well-being. She testified that while the Children were participating in visitations with Parents, the Children “would not speak to me[.]” but once visitations with Parents ended, “these kids opened up and started talking to me.” *Tr. Vol. I* at 45. FCM Guthrie further testified that the Children “over the last year and a half, [are]

way different[; . . .] doing well in school, Honor Roll[;] they're doing phenomenal[,]" and that the Children no longer needed therapy. *Id.*

[34] CASA Reynolds testified that she believed continuing the parent-child relationship between the Children and Mother posed a threat to the Children's well-being. *Id.* at 77. She testified to her concerns regarding Mother's "constant drug use and the inconsistencies[.]" *Id.* at 76. She further testified that the Children were sharing with their kinship placement parents the trauma they experienced from living with Parents. *Id.* at 76-77.

[35] DCS demonstrated by clear and convincing evidence that the Children's emotional and physical development would be threatened by continuation of Mother's parental rights. The evidence presented supports a conclusion that Mother poses a threat to the Children's well-being due to her struggles with substance abuse, her unwillingness to obtain employment, her inconsistencies in participating in services, the problems associated with Mother's visitations with the Children, and her lack of commitment toward working to improve herself. Therefore, the juvenile court did not commit clear error in determining there was a reasonable probability that continuation of the parent-child relationship posed a threat to the well-being of the Children.

Best Interests of the Children

[36] Mother also claims the juvenile court committed clear error in determining that termination of her parental rights was in the best interests of the Children. Mother argues that termination of her parental rights "will result in the removal

of services to Mother and the Children which cannot be in the Children's best interests." *Appellant's Br.* at 18.

[37] When determining whether termination of parental rights is in a child's best interests, courts look to "the totality of the evidence." *In re Ma.H.*, 134 N.E.3d 41, 49 (Ind. 2019), *cert. denied*, 140 S. Ct. 2835 (2020). This includes a child's need for permanency because "children cannot wait indefinitely for their parents to work toward preservation or reunification." *Id.* (quoting *E.M.*, 4 N.E.3d at 648). In doing so, the juvenile court must subordinate the interests of the parents to those of the child. *A.D.S.*, 987 N.E.2d at 1158. The juvenile court need not wait until a child is irreversibly harmed before terminating the parent-child relationship. *Id.*; *see also In re G.Y.*, 904 N.E.2d 1257, 1265 (Ind. 2009).

[38] A parent's drug abuse will support a trial court's conclusion that terminating parental rights is in the best interest of a child. *In re D.L.*, 814 N.E.2d 1022, 1030 (Ind. Ct. App. 2004), *trans. denied*. Likewise, the inability of a parent to provide a stable environment for a child also supports a trial court's conclusion that termination of parental rights is in a child's best interests. *K.T.K. v. Ind. Dep't of Child Servs.*, 989 N.E.2d 1225, 1230 (Ind. 2013). Additionally, when determining a child's best interests, it is appropriate for this court to rely on the recommendations of DCS, a child's advocate, and service providers. *See id.* at 1235-36.

[39] Here, FCM Guthrie testified that termination of Mother’s parental rights was in the best interests of the Children. *Tr. Vol. I* at 45. She told the juvenile court that Mother was never able to provide proof of stable employment. *Id.* at 42. Regarding Mother’s participation in the services provided and her ability to maintain sobriety, the FCM testified that

she [didn’t] have very much participation out of Mother. . . . [Mother] still continues to deny . . . methamphetamine use, . . . to denying alcohol abuse, basically a denial on everything. Not needing services. Not needing this or that. She will participate from time to time . . . but not consistently. And not to the point where I can get her to even do like the psych eval, where . . . we can see what’s actually going on. . . . I can’t get her services that she needs to do if she won’t maintain her sobriety.

Id. at 44. When asked what made her think that Mother would be unable to maintain her sobriety going forward, FCM Guthrie testified that it was Mother’s “pattern over the past two years[. . . Mother] has in the past gone, maybe a month or two[. . .] where I have clean [drug] screens and then she’ll relapse again . . . or it’s that I didn’t screen her on the days she was using. I’m not sure . . . but I have a whole lot of . . . non-participation . . . from the drug screens.” *Id.* at 44-45.

[40] CASA Reynolds testified that termination of Mother’s parental rights and adoption by the kinship placement parents was in the Children’s best interests because the Children had lived with the kinship placement parents for “more of

the kids' life [sic] than [Parents] have had them[,]”⁴ and that the Children were doing “extremely well[] in their placement. . . . And they're thriving.” *Id.* at 76, 78. She told the juvenile court that the Children were on the honor roll, were involved in sports, and were “very content[.]” *Id.* at 76. Based on the totality of the evidence, we conclude that the evidence supports the juvenile court's determination that termination of Mother's parental rights was in the Children's best interests.

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

[42] Affirmed.

May, J., and Vaidik, J., concur.

⁴ The Children's kinship placement mother testified that she is related to the Children through marriage -- that is, her ex-husband is Father, who is the father of the Children and the father of three of kinship placement mother's children. *Tr. Vol. I* at 84-85. Kinship placement mother further testified that in 2015, when the Children were two and one-half years old, the Children had been placed in her care because of a “domestic dispute” that had occurred between Parents. *Id.* at 81-82, 84. Kinship placement mother told the juvenile court that she continued to watch the Children after they were reunified with Mother in the 2015 case because, at that time, Mother was working “third shift.” *Id.* at 86-87.