

## MEMORANDUM DECISION

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



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## IN THE COURT OF APPEALS OF INDIANA

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In the Matter of the Termination  
of the Parent-Child Relationship  
of A.T., Father, and C.T. and  
J.T., Minor Children,

A.T.,

*Appellant-Respondent,*

v.

Indiana Department of Child  
Services,

*Appellee-Petitioner.*

November 2, 2021

Court of Appeals Case No.  
21A-JT-490

Appeal from the  
St. Joseph Probate Court

The Honorable  
Ashley Mills Colborn, Magistrate

Trial Court Cause Nos.  
71J01-1911-JT-169  
71J01-1911-JT-170

**Molter, Judge.**

[1] A.T. (“Father”) appeals the juvenile court’s order terminating his parental rights to his minor children, C.T. and J.T. (“Children”). Father raises the following restated issue on appeal: whether the juvenile court’s judgment terminating his parental rights was supported by clear and convincing evidence.

[2] We affirm.

**Facts and Procedural History**

[3] Children are ten-year-old twins born to Father and Mother on April 27, 2010. When they were about three years old, the Indiana Department of Child Services (“DCS”) had its first contact with Father when it substantiated an allegation of neglect against him based on his domestic violence against Mother. Tr. at 96; Ex. Vol. at 9. At that time, DCS initiated a child in need of services (“CHINS”) case, and Father was ordered to participate in services. Ex. Vol. at 9.

[4] Father did not participate in the services and was combative during court proceedings. *Id.* As part of the 2013 CHINS case, DCS referred Father to a batterers’ intervention program, but he was discharged from the program in March 2014 for noncompliance. Tr. at 82–83, 87. DCS closed the CHINS case as to Mother after she completed all required services. Ex. Vol. at 9.

- [5] Mother passed away in 2017, and after her death, Father became the primary caregiver of Children. *Id.* On October 13, 2017, Father was involved in a domestic violence incident with his girlfriend while Children were home and could hear the altercation. *Id.* J.T. reported that she could hear “hitting” and could hear Father’s girlfriend saying, “I can't breathe.” *Id.* Father was arrested on that date and was later charged with multiple crimes. *Id.* at 9, 120, 123.
- [6] DCS removed Children from Father’s home, first placing them with their maternal aunt and uncle, and then later in kinship care with an older sibling. Tr. at 96–97; Ex. Vol. at 9. On October 23, 2017, DCS filed a petition alleging that Children were CHINS. Ex. Vol. at 17–20. On October 24, 2017, Father, who remained in custody, admitted the allegations contained in the CHINS petition, and the juvenile court adjudicated Children to be CHINS. *Id.* at 24–25.
- [7] On November 8, 2017, the juvenile court entered dispositional and parental participation orders, with a plan of reunification. *Id.* at 39–44. Father was still incarcerated, and Children were ordered to remain in their placement and out of Father’s care. *Id.* at 40–41. The orders required that Father contact DCS every week; notify DCS of any changes in household composition, employment, and telephone number; notify DCS of any new arrests or criminal charges; allow DCS and service providers to make announced or unannounced visits to the home; enroll in programs recommended by DCS or other service

providers; keep all appointments with DCS and service providers; sign any releases necessary for DCS to monitor his compliance with the juvenile court's order; secure and maintain suitable housing; secure and maintain a legal and stable source of income; meet all of his personal and Children's medical and mental health needs in a timely fashion; not commit any acts of domestic violence; participate in a domestic violence assessment program; and attend all scheduled visitations with Children. *Id.*

[8] In March 2018, Father pleaded guilty to Level 6 felony intimidation and Level 6 felony invasion of privacy, two of the charges stemming from the October 2017 domestic violence incident. *Id.* at 120–27. He remained incarcerated for these convictions until April 2019, and upon his release, he began engaging in services. Tr. at 83, 100, 139; Ex. Vol. at 120–27. Father participated in a batterers' intervention program, home-based case management, and therapy. Tr. at 80–81, 83, 100–02.

[9] Father's participation in home-based case management was inconsistent, and his participation in the batterers' intervention program, which was the same program that he failed to complete in 2014, only lasted a short period of time. *Id.* at 84–86, 101–03. On September 5, 2019, Father went to a batterers' intervention group meeting and was very upset and agitated. *Id.* at 84. He told the therapist that he was too angry to stay and “stormed out of the building.” *Id.* At a meeting on October 3, 2019, which was the only meeting he attended that month, Father did not cooperate during the session, became argumentative

with a facilitator, and did not respond to redirection. *Id.* at 85. Therapist Patricia Hancock believed that Father was “very volatile” and “incredibly emotionally deregulated.” *Id.* at 86. Father was subsequently discharged from the batterers’ intervention program due to violation of group rules and because he became incarcerated again in October 2019. *Id.* at 85, 102-03. After his re-incarceration, Father was unable to participate in any further services. *Id.* at 102–03.

[10] Between June 2019 and October 2019, Father attended approximately ten therapeutic visits with Children. *Id.* at 15, 17-18. During the initial visits, it was apparent that Father favored child J.T., who is his only daughter. *Id.* at 19, 70–71. The visits improved over time, and toward the end of the time that Father participated in visitation, he was giving equal attention to both Children. *Id.* at 31. But then Father’s visitation with Children stopped in October 2019 when he was arrested for multiple domestic violence-related offenses, including Class A misdemeanor invasion of privacy, Class A misdemeanor intimidation, Level 6 felony intimidation, and Level 5 felony stalking, and was reincarcerated. *Id.* at 15, 102, 109–10; Ex. Vol. 128–31.

[11] On November 21, 2019, DCS filed a petition to terminate Father’s parental rights. Appellant’s App. Vol. II at 163–65. Almost a year later, on October 16, 2020, the juvenile court held an evidentiary hearing on the termination petition, and Father was still incarcerated. Tr. at 4, 131.

[12] Jillian Casteel, who had been Children’s therapist and visit supervisor since December 2017, testified at the hearing that when Children were first referred to her, they were experiencing instability because Mother had just died, and Children had moved three times. *Id.* at 10, 11–12. Children had anger management issues and temper tantrums, and they exhibited self-harming behaviors. *Id.* at 11. Casteel testified that Children were not surprised by Father’s arrest in 2019 and that it appeared to her that Children expected it to happen. *Id.* at 15–17.

[13] After Father was arrested, he sent Children letters and drawings from jail, and Casteel testified that C.T. did not want to take the letters and pictures home with him, but J.T. took hers with her. *Id.* at 26. Casteel stated that, after receiving the letters and the pictures, J.T.’s “behaviors started to increase again and the negative cognition came back up pretty strong.” *Id.* at 27. In therapy sessions, referring to Father, J.T. told Casteel, “he’s bad so I’m bad.” *Id.* at 26. Children responded well to therapy and made a lot of progress. *Id.* at 12. They initially had therapy once a week, then decreased to once every other week, and by the time of the termination hearing, therapy was no longer necessary. *Id.* at 10.

[14] Family Case Manager Alyssa Garza (“FCM Garza”), who began working with the family in October 2017, testified that she had made the referrals for Father to participate in services when he was released from incarceration in April 2019. *Id.* at 95, 99. She stated that Father completed a clinical intake

assessment, which recommended that he participate in therapy, and that he began that, therapy, the batterers' intervention program, and home-based case management. *Id.* at 100–01. FCM Garza testified that Father did not feel like he was receiving what he needed out of the home-based case management and, therefore, did not have consistent participation. *Id.* at 101. FCM Garza also testified as to Father's housing situation and that when he was not incarcerated, Father was living with his mother. *Id.* at 102. FCM Garza stated that this living arrangement was not stable because Father and his mother argued, and there were "some drinking issues" with his mother. *Id.* Father was not successful in obtaining employment before he was reincarcerated in October 2019. *Id.* at 103, 114.

[15] Evidence was presented regarding Father's history of criminal offenses involving offenses against intimate partners. In 2013, Father was convicted of misdemeanor battery, which resulted from an incident of domestic violence against Mother. Tr. at 96, 137; Ex. Vol. at 9. In 2014, Father violated his probation by not completing the court-ordered batterers' intervention program. *Id.* at 138. In 2015, Father was convicted of invasion of privacy. *Id.* at 138–39. In March 2018, Father pleaded guilty to Level 6 felony intimidation and Level 6 felony invasion of privacy for offenses against his girlfriend at the time; these were the offenses for which he was arrested in October 2017, when DCS removed Children from his care. *Id.* at 139; Ex. Vol. at 120–27.

[16] At the termination hearing, Father testified that while incarcerated for those offenses, he again committed invasion of privacy when he called his girlfriend, who was pregnant with his child at the time. Tr. at 140. Father was released from incarceration in April 2019. *Id.* at 100. In October 2019, Father was arrested for one count of Class A misdemeanor invasion of privacy, two counts of Class A misdemeanor intimidation, one count of Level 6 felony intimidation, and one count of Level 5 felony stalking and remained incarcerated for these offenses at the time of the termination hearing. *Id.* at 102, 109–10; Ex. Vol. at 128–31.

[17] At the time of the termination hearing, Children had been with their foster mother for two and a half years, and their behavior had immensely improved while in foster care. Tr. at 38, 42. Initially, C.T. tried to be a “perfectionist” and to gain approval by doing everything right. *Id.* at 38. When he made a mistake, he would become very upset and would withdraw into himself, cry, and sit inside a closet. *Id.* at 38–39. At school, C.T. hit other children. *Id.* at 41–42. When J.T. first moved to the home of the foster mother, she was loud and screamed and threw temper tantrums if she did not “get her own way.” *Id.* at 39. At the time of the termination hearing, J.T.’s tantrums had significantly decreased, and C.T. had not hit another child in a year and a half. *Id.* at 42. Children were thriving in foster care, doing well academically, and were involved in extracurricular activities such as Cub Scouts and art. *Id.* at 104–06.

The foster mother was willing to adopt Children, and Children told Casteel that they would like to stay with their foster mother. *Id.* at 17, 46.

[18] Court Appointed Special Advocate Karen Curtis-Miller (“CASA Curtis-Miller”) testified that she believed that termination and adoption were in Children’s best interests. *Id.* at 71–72. CASA Curtis-Miller further stated that Children needed stability, which Father would not be able to provide because he had been in and out of jail and may continue to remain in jail in the future. *Id.* at 76. FCM Garza testified that she believed that termination and adoption were in Children’s best interests because Children need stability and permanency, which Father could not provide because he was unable to care for them due to his incarceration. *Id.* at 107–08. FCM Garza also stated that services had not been effective for Father because he had been provided services, but he was still committing new offenses, which were related to domestic violence. *Id.* at 108. He was also still prone to angry outbursts. *Id.*

[19] On February 23, 2021, the juvenile court entered its decree terminating Father’s parental rights. Appellant’s App. Vol. II at 30–46. The juvenile court concluded, among other things, that: there was a reasonable probability that the conditions which resulted in Children’s removal and continued placement outside the home will not be remedied; Children had been adjudicated CHINS on two separate occasions; termination of parental rights was in Children’s best interests; and that Children’s adoption was the satisfactory plan that DCS had for the care and treatment of Children. *Id.* at 39–45. Father now appeals.

## Discussion and Decision

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

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

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

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

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

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

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

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

- [22] When reviewing a termination of parental rights, 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.
- [23] 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*.
- [24] As our Supreme Court has observed, “[d]ecisions to terminate parental rights are among the most difficult our trial courts are called upon to make. They are also among the most fact-sensitive—so we review them with great deference to the trial courts[.]” *E.M. v. Ind. Dep’t of Child Servs.*, 4 N.E.3d 636, 640 (Ind. 2014). While the Fourteenth Amendment to the United States Constitution protects the traditional right of a parent to establish a home and raise his child, the law allows for the termination of those rights when a parent is unable or

unwilling to meet his responsibility as a parent. *Bester v. Lake Cnty. Office of Fam. & Child.*, 839 N.E.2d 143, 145 (Ind. 2005); *In re D.P.*, 994 N.E.2d 1228, 1231 (Ind. Ct. App. 2013).

[25] Parental rights are not absolute and must be subordinated to the child's interests in determining the appropriate disposition of a petition to terminate the parent-child relationship. *In re J.C.*, 994 N.E.2d 278, 283 (Ind. Ct. App. 2013). The purpose of terminating parental rights is not to punish the parent but to protect the child. *In re D.P.*, 994 N.E.2d at 1231. Termination of parental rights is proper where the child's emotional and physical development is threatened. *Id.* The juvenile court need not wait until the child is irreversibly harmed such that their physical, mental, and social development is permanently impaired before terminating the parent-child relationship. *Id.*

[26] Initially, we note that Father does not challenge the juvenile court's findings of fact, so we must consider them true for purposes of review. *In re S.S.*, 120 N.E.3d 605, 610 (Ind. Ct. App. 2019) (citing *McMaster v. McMaster*, 681 N.E.2d 744, 747 (Ind. Ct. App. 1997)). Further, Father does not challenge the juvenile court's conclusions that DCS timely filed its termination petition, that Children had been adjudicated CHINS on two separate occasions, or that there was a satisfactory plan for Children's "care and treatment" under Indiana Code section 31-35-2-4(b)(2)(A), (B)(iii), and (D). Father has therefore waived any challenge to the juvenile court's legal conclusion as to these elements for failure

to make a cogent argument. *In re B.R.*, 875 N.E.2d 369, 373 (Ind. Ct. App. 2007) (citing Ind. Appellate Rule 46(A)(8)(a)), *trans. denied*.

[27] In his Appellant’s brief, Father argues that the juvenile court erred in terminating his parental rights because DCS failed to prove by clear and convincing the required elements for termination. Although not clearly articulated, Father seems to contend that DCS failed to prove that the conditions resulting in the removal of Child would not be remedied because, after his release from incarceration in April 2019, he participated in services, had visitations with Children, and was building a strong bond with Children. He asserts that, even though he was again incarcerated in October 2019, that should not have been held against him and that he should have been offered further services. Further, Father claims that DCS did not present evidence that he was not a fit parent, and instead, he had been making “every step to progress forward” to better himself and do the things that were necessary to head in the right direction. Appellant’s Br. at 19.

[28] Father challenges the juvenile court’s conclusion under Indiana Code section 31-35-2-4(b)(2)(B)(i), arguing that DCS failed to present sufficient evidence to prove that there was a reasonable probability that the conditions that led to Child’s removal would not be remedied. Appellant’s Br. at 14-16. The juvenile court also found, however, that Children had, on two separate occasions, been adjudicated CHINS. Appellant’s App. Vol. II at 42–43. Indiana Code section 31-35-2-4(b)(2)(B) is written in the disjunctive and requires the juvenile court to

find only one of the three requirements of subsection (b)(2)(B) by clear and convincing evidence. *See* Ind. Code § 31-35-2-4(b)(2)(B); *A.D.S.*, 987 N.E.2d at 1157 n.6. Therefore, standing alone, the juvenile court’s conclusion that Children had, on two separate occasions, been adjudicated CHINS satisfied the requirement listed in subsection (b)(2)(B).

[29] Regardless, there was also sufficient evidence to support the juvenile court’s conclusion that a reasonable probability existed that the conditions resulting in the removal of Children were unlikely to be remedied. In determining whether there is a reasonable probability that the conditions that led to a child’s removal and continued placement outside the home will not be remedied, we engage in a two-step analysis. *K.T.K. v. Ind. Dep’t of Child Servs.*, 989 N.E.2d 1225, 1231 (Ind. 2013). First, we must ascertain what conditions led to the child’s placement and retention in foster care, and second, we determine whether there is a reasonable probability that those conditions will not be remedied. *Id.* In the second step, the trial court must judge a parent’s fitness at the time of the termination proceeding, taking into consideration evidence of changed conditions and balancing a parent’s recent improvements against “‘habitual pattern[s] of conduct to determine whether there is a substantial probability of future neglect or deprivation.’” *E.M.*, 4 N.E.3d at 643 (quoting *K.T.K.*, 989 N.E.2d at 1231). Pursuant to this rule, “trial courts have properly considered evidence of a parent’s prior criminal history, drug and alcohol abuse, history of neglect, failure to provide support, and lack of adequate housing and

employment.” *In re D.B.*, 942 N.E.2d 867, 873 (Ind. Ct. App. 2011). In addition, DCS need not provide evidence ruling out all possibilities of change; rather, it need establish only that there is a reasonable probability the parent’s behavior will not change. *In re Involuntary Termination of Parent-Child Relationship of Kay L.*, 867 N.E.2d 236, 242 (Ind. Ct. App. 2007). “We entrust that delicate balance to the trial court, which has discretion to weigh a parent’s prior history more heavily than efforts made only shortly before termination.” *E.M.*, 4 N.E.3d at 643. When determining whether the conditions for the removal would be remedied, the juvenile court may consider the parent’s response to the offers of help. *D.B.*, 942 N.E.2d at 873.

[30] Here, the conditions that led to Children’s removal from Father’s care were his arrest and incarceration for a domestic violence incident on October 13, 2017 involving Father’s girlfriend. Ex. Vol. at 9. Contrary to Father’s statement that Children were not in the home when this altercation occurred, the evidence showed that Children were present in the home and could hear the altercation. *Id.* Specifically, J.T. reported that she could hear “hitting” and could hear the girlfriend saying, “I can’t breathe.” *Id.* Father was later charged with multiple crimes resulting from this incident and remained incarcerated until April 2019. *Id.* at 9, 120, 123; Tr. at 100.

[31] Upon his release in April 2019, Father engaged in services and participated in a batterers’ intervention program, home-based case management, and therapy. Tr. at 80–81, 83, 100–02. However, Father’s participation in home-based case

management was inconsistent, and his participation in the batterers' intervention program, which was the same program that he had previously failed to complete in 2014, only lasted a short period of time. *Id.* at 84–86, 101–03. The evidence showed that in September 2019, Father went to a batterers' intervention group meeting, was very upset and agitated, and told the therapist that he was too angry to stay and “stormed out of the building.” *Id.* at 84.

[32] At the only meeting he attended in October 2019, Father did not cooperate, becoming argumentative with a facilitator and failing to respond to redirection. *Id.* at 85. Father was subsequently discharged from the batterers' intervention program due to violation of group rules and because he became incarcerated again in October 2019. *Id.* at 85, 102-03. After his incarceration in October 2019, Father was unable to participate in any further services. *Id.* at 102–03.

[33] Father's criminal history and his history with DCS are related to each other and are associated with his inability to control his anger and his commission of acts of domestic violence. Beginning in 2013, Father was convicted of misdemeanor battery, resulting from an incident of domestic violence against Mother, and DCS substantiated neglect against Father and initiated a CHINS case. *Tr.* at 96, 137; *Ex. Vol.* at 9. Father then violated his probation in 2014 when he failed to complete the court-ordered batterers' intervention program, and in 2015, he was convicted of invasion of privacy. *Id.* at 138–39. In March 2018, Father pleaded guilty to Level 6 felony intimidation and Level 6 felony invasion of privacy for offenses against his girlfriend at the time, which were the offenses

that caused DCS to remove Children from his care. *Id.* at 139; Ex. Vol. at 120–27. Father testified that while incarcerated for those offenses, he again committed invasion of privacy when he called his girlfriend. Tr. at 140. Father was released from incarceration in April 2019, but was again arrested six months later, in October 2019, this time for misdemeanor counts of invasion of privacy and intimidation and felony counts of intimidation and stalking. *Id.* at 100, 102, 109–10; Ex. Vol. at 128–31. Father remained incarcerated awaiting resolution of these offenses at the time of the termination hearing held on October 16, 2020, and no release date was given. Tr. at 4, 131.

[34] Based on the evidence presented, Father had a history of being incarcerated and committing acts of domestic violence against his intimate partners and in the presence of Children. Over the duration of the present case, which spanned three years, Father spent two and a half years incarcerated. At the time of the termination hearing, he was again incarcerated with no known release date and was facing multiple charges, including Level 5 felony stalking. Although Father participated in services, including home-based case management, therapy, and the batterers’ intervention program, his participation was inconsistent and short-lived due to his commission of additional offenses. As to his participation in the batterers’ intervention program, Father was discharged from the program based on violation of group rules and his incarceration in October 2019.

- [35] Additionally, when he was not incarcerated, Father did not have a stable housing situation as he was living with his mother, who had “some drinking issues,” and he and his mother argued a lot. Tr. at 102. Father was also not successful in obtaining employment before he was reincarcerated in October 2019. *Id.* at 103, 114.
- [36] In challenging the juvenile court’s determination, Father relies on *In re O.G.*, 159 N.E.3d 36, 43 (Ind. Ct. App. 2020), *trans. denied sub nom. K.T. v. Ind. Dep’t of Child Servs.*, 165 N.E.3d 65 (Ind. 2021). In that case, in 2016, the trial court terminated the parent-child relationship between the mother and the child, and on appeal, this court reversed, finding insufficient evidence to support termination and noting that the reasons for the child’s removal had been addressed and improved. *Id.* at 40. After remand, the mother’s stability continued, but DCS made only minimal efforts to reunite the mother with the child, and the child largely refused to interact with the mother because the child had grown close with the foster family. *Id.* at 40–42. As a result, DCS again filed a petition to terminate the mother’s parental rights, and the trial court again granted DCS’s petition. *Id.* at 41–42.
- [37] On appeal from this second termination order, this court again reversed, finding that the evidence did not support termination because there was no showing that the mother was unfit or unable to parent the child. *Id.* at 44. This court acknowledged that leaving the foster family and reunifying with the mother would be very difficult for the child, but that a child’s resistance to reunification

was simply not a legitimate reason to terminate the rights of a willing and able natural parent. *Id.* at 46.

[38] We find Father’s reliance on *In re O.G.* to be misplaced. Unlike the mother in that case, Father made minimal efforts to remedy the conditions that resulted in removal of Children because he was repeatedly involved in domestic violence incidents against his intimate partners. The evidence in the present case did not show that Father had made significant improvements during the case. He was discharged from the same batterers’ intervention program on two occasions because he violated the rules and was re-arrested. Additionally, unlike in *In re O.G.*, DCS has not unreasonably withheld Children from Father. From the time he was released in April 2019 until he was re-arrested in October 2019, he had therapeutic visits with Children. Those who “pursue criminal activity run the risk of being denied the opportunity to develop positive and meaningful relationships with their children.” *Castro v. State Office of Family & Children*, 842 N.E.2d 367, 375 (Ind. Ct. App. 2006), *trans. denied*. Father’s choice to continue to commit criminal offenses demonstrates that Father was unlikely to make choices consistent with properly providing for Children’s daily needs.

[39] Father’s reliance on *K.E. v. Indiana Department of Child Services*, 39 N.E.3d 641, (Ind. 2015) is similarly misplaced. There, the father made substantial efforts to improve his life and participated in programs that were available to him while he was incarcerated. *Id.* at 648–49. Our Supreme Court found that DCS did not prove by clear and convincing evidence that the father could not remedy the

conditions that resulted in his children's removal because, despite his criminal and substance abuse history, the father had made substantial effort to make improvements in his life and to become a better parent. *Id.* at 649. Here, Father has not shown the same effort to improve his life. He has repeatedly committed acts of domestic violence and shown an inability to control his anger. He also failed to demonstrate that he participated in programs while incarcerated to better himself as the father did in the *K.E.* case. Further, when he was released from incarceration, he only participated in services for six months before he was re-arrested, and his participation in both home-based case management and the batterers' intervention program was not consistent.

[40] The evidence presented at the termination hearing established that Father had neglected to take advantage of services and had continued to commit criminal offenses resulting in his incarceration at the time of the hearing with an uncertain future due to the pending criminal charges against him. "A pattern of unwillingness to deal with parenting problems and to cooperate with those providing social services, in conjunction with unchanged conditions, support a finding that there exists no reasonable probability that the conditions will change." *Lang v. Starke Cnty. Office of Fam. & Child.*, 861 N.E.2d 366, 372 (Ind. Ct. App. 2007), *trans. denied*. We, therefore, conclude that the juvenile court's conclusion that there was a reasonable probability Father would not remedy the conditions resulting in Children's continued removal from Father's care was

not clearly erroneous. We, therefore, affirm the juvenile court's order terminating Father's parental rights.

[41] Affirmed.

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