

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

In re the Termination of the
Parent-Child Relationship of:
M.C. (*Minor Child*)

and

K.K. (*Mother*) and R.C. (*Father*),
Appellant-Respondent,

v.

Indiana Department of Child
Services,
Appellee-Petitioner,

February 22, 2021

Court of Appeals Case No.
20A-JT-1642

Appeal from the Putnam Circuit
Court

The Honorable Matthew L.
Headley, Judge

Trial Court Cause No.
67C01-2002-JT-1

Robb, Judge.

Case Summary and Issue

- [1] K.K. (“Mother”) appeals the termination of her parental rights to her minor child and raises several issues which we consolidate and restate as: whether the juvenile court’s order terminating her parental rights was clearly erroneous. Concluding it was not, we affirm.

Facts and Procedural History

- [2] Mother and R.C. (“Father”)¹ are the biological parents of M.C., born October 13, 2014 (“Child”). The Indiana Department of Child Services (“DCS”) initially became involved with the family right after Child’s birth. On October 17, 2014, DCS filed a petition alleging Child was a child in need of services (“CHINS”) due to concerns that Mother was unable to properly care for Child, as well as unsanitary and unsafe home conditions. Mother appeared to have a low-level of cognitive functioning and difficulty completing simple tasks, such as ordering a meal or taking care of herself. When DCS family case managers (“FCM”) visited Mother’s home, there was a terrible odor, some rooms were missing parts of the floor, and there was no heat. There were three cats and one dog inside the home and seven or eight dogs in the backyard in a pen. DCS detained Child. Mother admitted Child was a CHINS and was ordered to

¹Father voluntarily relinquished his parental rights to Child and does not participate in this appeal. Therefore, we have limited our recitation of the facts to those pertaining to Mother except where necessary.

participate in services. In July 2015, Mother and Child were reunified and the CHINS case was closed.

- [3] DCS became involved three more times for additional claims of neglect due to poor home conditions. These claims occurred in September and November of 2017 and February of 2018, but the claims of neglect against Mother were closed as unsubstantiated.
- [4] On May 10, 2018, DCS received a report alleging Child was a victim of neglect due to unsanitary and unsafe home conditions. FCMs Krista Scobee and Kristina Williams conducted a home visit² and observed “deplorable conditions.” Transcript of Evidence, Volume 2 at 25. There were cobwebs, clutter, and trash littered throughout the house. The bunkbeds were covered in so many items that one could not sit or lay down. The FCMs also observed chemical bottles within Child’s reach and noticed that the toilets were filled with feces and “appeared [they] hadn’t been flushed in . . . weeks[.]” *Id.* at 10. Pest feces covered the walls and cockroaches crawled on the walls. There were unsafe holes in the kitchen and bedroom floors. In fact, a previous resident had moved out of the house after his or her bed fell through the holes in the floor. The house emitted a terrible odor requiring the FCMs to step outside for fresh air halfway through their visit. Seven dogs, two cats, and a rabbit were also living inside the house without food. When FCM Scobee spoke with Mother,

² At the time, four other individuals lived in the house.

Mother “just had a blank stare [and] wasn’t able to engage in an interview much at all.” *Id.* at 11. And when she discussed creating a safety plan with Mother, Mother did not engage or participate.

[5] Due to the home conditions, previous unsubstantiated assessments, and the fact that Mother “did not appear to understand [DCS’] concerns about the poor home conditions[,]” DCS detained Child. *Id.* at 12. On May 14, 2018, DCS filed a petition alleging Child was a CHINS for these reasons. An initial/detention hearing was held the same day during which Mother denied the allegations of the petition. FCM Williams took over the case in July. At a hearing on July 31, 2018, Mother admitted Child was a CHINS and the juvenile court adjudicated Child as such. Child was placed in foster care.

[6] Mother underwent a functional needs assessment with Patricia Lewellen, who teaches life skills at Cummins Behavioral Health Services, in August 2018. The assessment determined Mother “had a very wide range of skills needs, including self-care, budgeting[,] all the daily living skills [such as] cleaning, routine organizing, budgeting, parenting skills, building self-confidence, setting boundaries[.]” *Id.* at 63. Mother completed two skills sessions with Lewellen and one family team meeting. During the skills sessions, Lewellen helped Mother practice scheduling appointments and transportation. Mother was unable to make any progress on life skills because she failed to engage. Lewellen’s last attempt to contact Mother was on October 23, 2018 and Mother did not respond. Therefore, the referral was closed in December.

- [7] Mother also met with Melanie Gibbs, therapist with Cummins, on September 7, 2018 for an initial therapy session. During the session, the two discussed Mother's background, history of symptoms, and potential interventions. Mother had a second session scheduled for September 17, but she failed to attend or contact Gibbs to cancel the appointment. Gibbs called Mother and Mother stated she had no transportation. As a result, Gibbs set her up with a Medicaid transportation provider and rescheduled the appointment for September 24. However, Mother failed to show for that appointment as well. Gibbs contacted Mother and left a message regarding the missed appointment and scheduled another appointment for October 3. Mother again failed to attend or contact Gibbs. Gibbs called Mother, left a message, and sent her a letter. The last time Gibbs tried to contact Mother was in December 2018, but Gibbs never heard from Mother again and discharged her due to lack of engagement.
- [8] In September 2018, FCM Williams returned to Mother's house and stated "the home had gotten so bad that the infestation of cockroaches were in [C]hild's . . . room . . . and [Mother] didn't see a problem with that." *Id.* at 25. When Mother opened the closet, a cockroach crawled up Williams' leg. Several months later, Mother moved into a new house in Brazil, Indiana.
- [9] Following a hearing, the juvenile court issued a dispositional decree ordering Mother to (among other things): maintain contact with the FCM; allow the FCM to make announced or unannounced home visits and permit entrance to the home; maintain safe, sanitary, and stable housing; timely enroll and

successfully complete all recommended programs; attend all scheduled visitations; participate in home-based counseling; complete a psychological evaluation; and meet all personal medical and mental health needs. *See* Exhibits, Volume 3 at 80-81. DCS made the appropriate referrals for Mother.

[10] A review hearing was held on December 18 and the juvenile court subsequently issued an order finding that Mother had “generally been non-compliant [with the case plan] and fails to see that there are any issues with her home or parenting.” *Id.* at 83. Mother agreed to complete a psychological evaluation to determine whether she qualifies for BDDS,³ which provides long-term services for individuals with disabilities.

[11] On February 21, 2019, Mother met with Sarah Szerlong, clinical psychologist at Connections, Inc., and underwent a psychological evaluation. The evaluation revealed that Mother had a history of different traumas, which Szerlong believed “intersect with the DCS case[.]” *Tr.*, Vol. 2 at 74. Szerlong reported that Mother’s cognitive ability was in the extremely low range of functioning and diagnosed Mother with a mild intellectual disability, post-traumatic stress disorder, and unspecified depressive disorder. As a result of her evaluation, Szerlong recommended that Mother participate in individual therapy at least once a week, case management, parenting education, and skills support. She also recommended a medication referral.

³ The acronym for BDDS is not provided in the record.

[12] In April 2019, the juvenile court held a permanency hearing after which it issued an order finding that Mother had partially complied with the case plan as her participation was “sporadic”; moved into a new home, which already contained animal urine; and “express[ed] a desire to engage, but then won’t answer the door to providers/DCS[.]” Exhibits, Vol. 3 at 91.

[13] From May to August 2019, Alissa Burch of Noble Transitions supervised Mother’s visitation with Child, which occurred twice each week. During these visits, many of which occurred at the library, Mother was not engaged with Child. Instead, Mother would look at books or do activities by herself. Burch had various safety concerns, including the unsanitary home conditions, Mother’s failure to hold Child’s hand to prevent him from darting into the street, and Mother’s inability to comfort Child if Child was injured. Even after working with Mother to show her how to do different activities, she failed to improve. Burch also believed “[t]here wasn’t much of a bond [between Mother and Child]. She didn’t show much affection towards him.” Tr., Vol. 2 at 83. For example, Burch would transport Child and Mother to visits and she would pick Child up first and then get Mother. When Mother would get into the vehicle, she would not greet Child and when Child would say “hi” or “I love you” to Mother, she would not respond. *Id.* Due to scheduling, Mother’s case was subsequently reassigned to Dana Black to supervise the visits. Neither Burch nor Black ever recommended that Mother move to unsupervised visits.

[14] Mark Sprinkle, home-based case worker with Ireland Home Based Services, was assigned to Mother’s case in August 2019. Sprinkle initially had trouble

contacting Mother. After he showed up at Mother's house one day, Mother began home-based counseling. Mother revealed to Sprinkle that she suffered from seizures as a result of fluid on the side of her brain. From August 2019 to March 2020, Sprinkle and Mother met ten to twenty times totaling approximately twenty-five hours and worked on developing communication and parenting skills, maintaining a clean home, budgeting, and scheduling appointments. Sprinkle provided a list of tasks for Mother to complete with due dates, including obtaining a new referral for a neurology appointment to address her seizures and contacting the Hamilton Center for a new therapy intake. Mother failed to complete these tasks. Sprinkle would contact Mother without response. He even drove to Mother's house, observed people inside, but no one would answer the door. Unfortunately, Mother was discharged as unsuccessful due to her lack of communication.

- [15] In September 2019, the juvenile court issued an order again finding that Mother had “minimally complied” with the case plan and approving Child’s permanency plan of reunification with a concurrent plan of adoption. Exhibits, Vol. 3 at 94. Two months later, in November, Mother was referred to RainTree Consulting, LLC for a family functioning assessment; however, the referral was closed in December because Mother failed to make any contact. Around the same time, Mother met with Steve Center, home-based therapist at Family Interventions, three times at her home. Center described the conditions of Mother’s home during the first two visits as “unacceptable and “really filthy” but stated it was much cleaner at the third visit. Tr., Vol. 2 at 87-88. The third

visit went really well, but when Center contacted Mother multiple times thereafter, he received no response. As a result, he closed her case in January 2020.

[16] In December 2019 and March 2020, the juvenile court found Mother had only partially complied with the case plan, partially enhanced her ability to parent, and partially cooperated with DCS. Mother was ordered to undergo a parenting assessment and follow all recommendations. Mother failed to do so.

[17] On February 5, 2020, DCS filed its Verified Petition for Involuntary Termination of Mother's parental rights. *See* Appendix of Appellant, Volume 2 at 31. A court appointed special advocate ("CASA"), Patti Harmless, was assigned to the case. A fact-finding hearing was held on July 23, 2020. Following the hearing, the juvenile court issued an order terminating Mother's parental rights and finding, in pertinent part:

[Conclusions of Law]

* * *

6. . . . Mother has failed to avail herself of the services offered to her throughout the underlying [CHINS].

7. . . . Child's continuing emotional and physical development would be harmed by a return to Mother. Mother has not demonstrated improvement in her ability to care for a dependent child that can be maintained over time, and her observed lack of bond with the Child would seriously harm the Child's future mental health.

8. . . . [T]here is a substantial probability of future neglect by Mother, in that she has failed to demonstrate a willingness or ability to improve her parenting.

* * *

10. . . . [R]eunification cannot be safely achieved at this time.

11. Although there may be some link between Mother's mental deficits and her inability to make safe decisions or attend to the Child's needs, these failures are not excused by those mental deficits. . . .

12. The Court is terminating Mother's parental rights as a result of a combination of failings and not as the result of a single incident or factor. It is the Court's finding that there is an untenable risk of harm and/or future removals if the Child is left in Mother's care without oversight.

Appealed Order at 16-17. Based on these findings, the juvenile court concluded there is a reasonable probability that the conditions that led to Child's removal and continued placement outside of Mother's care will not be remedied and that the continuation of the parent child relationship poses a threat to Child's well-being. The juvenile court also concluded that termination of Mother's parental rights is in Child's best interests. Mother now appeals.

Discussion and Decision

I. Standard of Review

[18] The Fourteenth Amendment to the United States Constitution protects the right of parents to establish a home and raise their children. *In re Adoption of O.R.*, 16 N.E.3d 965, 972 (Ind. 2014). But the law also provides for the termination of those rights when parents are unable or unwilling to meet their parental responsibilities. *In re J.S.*, 133 N.E.3d 707, 714 (Ind. Ct. App. 2019). Although we acknowledge that the parent-child relationship is “one of the most valued relationships in our culture[,]” we also recognize that “parental interests are not absolute and must be subordinated to the child’s interests in determining the proper disposition of a petition to terminate parental rights.” *Bester v. Lake Cnty. Off. of Family & Child.*, 839 N.E.2d 143, 147 (Ind. 2005) (internal quotations omitted). The involuntary termination of parental rights is the most extreme sanction a court can impose because termination severs all rights of a parent to their children. *In re R.A.*, 19 N.E.3d 313, 321 (Ind. Ct. App. 2014), *trans. denied*. As such, termination is intended as a last resort, available only when all other reasonable efforts have failed. *Id.* The purpose of terminating parental rights is to protect children, not to punish parents. *In re C.D.*, 141 N.E.3d 845, 852 (Ind. Ct. App. 2020), *trans. denied*.

[19] When reviewing the termination of parental rights, we do not reweigh the evidence or judge the credibility of witnesses but consider only the evidence and reasonable inferences most favorable to the judgment. *In re E.M.*, 4 N.E.3d 636, 642 (Ind. 2014). In deference to the juvenile court’s unique position to assess the evidence, we will set aside its 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). Thus, if the evidence and inferences support the decision, we must affirm. *Id.*

[20] When terminating parental rights, the juvenile court must enter findings and conclusions, Ind. Code § 31-35-2-8(c), and we therefore apply a two-tiered standard of review, *Bester*, 839 N.E.2d at 147. We first determine whether the evidence supports the findings, then determine whether the findings support the judgment. *Id.* We will not set aside the findings or judgment unless they are clearly erroneous. *Z.B. v. Ind. Dep’t of Child Servs.*, 108 N.E.3d 895, 900 (Ind. Ct. App. 2018) (quotation omitted), *trans. denied*. “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). A judgment is clearly erroneous only if the findings do not support the court’s conclusions or the conclusions do not support the judgment thereon. *Id.*

II. Statutory Framework for Termination

[21] Indiana Code section 31-35-2-4(b)(2) sets forth the elements that DCS must allege and prove to terminate a parent-child relationship, in pertinent part:

(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 [CHINS];

(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.

[22] DCS must prove each element by clear and convincing evidence. Ind. Code § 31-37-14-2. Indiana Code section 31-35-2-4(b)(2)(B) is written in the disjunctive, and therefore the juvenile court need only find that one of the requirements of subsection (b)(2)(B) was established by clear and convincing evidence. *See In re L.S.*, 717 N.E.2d at 209. If the juvenile court finds the allegations are true, “the court shall terminate the parent-child relationship.” Ind. Code § 31-35-2-8(a).

III. Termination of Mother’s Parental Rights

[23] We begin by noting that Mother does not challenge any of the juvenile court’s findings; therefore, we accept the findings as true. *In re A.M.*, 121 N.E.3d 556, 562 (Ind. Ct. App. 2019), *trans. denied*. Instead, Mother challenges the juvenile court’s conclusions that there is a reasonable probability that the conditions that led to Child’s removal and continued placement outside of her care will not be

remedied, the parent-child relationship poses a threat to Child's well-being, and termination is in Child's best interests.

A. Remedy of Conditions

[24] We engage in a two-step analysis to determine whether the conditions that led to removal will be remedied: "First, we must ascertain what conditions led to [Child's] placement and retention in foster care. Second, we determine whether there is a reasonable probability that those conditions will not be remedied." *In re K.T.K.*, 989 N.E.2d 1225, 1231 (Ind. 2013) (quotation omitted). With respect to the second step, a juvenile court assesses whether a reasonable probability exists that the conditions justifying a child's removal or continued placement outside his parent's care will not be remedied by judging the parent's fitness to care for the child at the time of the termination hearing, taking into consideration evidence of changed conditions since removal. *In re E.M.*, 4 N.E.3d at 643.

[25] A parent's habitual patterns of conduct must also be evaluated to determine the probability of future neglect or deprivation of the child. *Matter of K.T.*, 137 N.E.3d 317, 326 (Ind. Ct. App. 2019). Habitual conduct may include criminal history, drug and alcohol abuse, history of neglect, failure to provide support, and lack of adequate housing and employment, but the services offered to the parent and the parent's response to those services can also be evidence of whether conditions will be remedied. *A.D.S v. Ind. Dep't of Child Servs.*, 987 N.E.2d 1150, 1157 (Ind. Ct. App. 2013), *trans. denied*. And such a

determination “must be founded on factually-based occurrences as documented in the record—not simply speculative or *possible* future harms.” *In re V.A.*, 51 N.E.3d 1140, 1146 (Ind. 2016). 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 I.A.*, 903 N.E.2d 146, 154 (Ind. Ct. App. 2009).

[26] Here, Child was initially removed from Mother’s care due to hazardous home conditions and Mother’s inability to properly care for Child. Child remained outside of Mother’s care due to her non-compliance with services, failure to improve her ability to parent Child, failure to maintain safe and suitable housing conditions, and lack of bond with Child. Mother recognizes that she struggled during the CHINS case but claims “there were reasons for optimism” such that the juvenile court erred in concluding there is a reasonable probability that these conditions will not be remedied. Brief of Appellant at 18. We disagree and conclude there is sufficient evidence to support the juvenile court’s conclusion.

[27] First, since the inception of this case, Mother’s participation in services has been inconsistent and sporadic. As part of the dispositional decree, Mother was ordered, in part, to maintain contact with the FCM; allow the FCM to make announced or unannounced home visits and permit entrance to the home; maintain safe, sanitary, and stable housing; timely enroll and successfully complete all recommended programs; attend all scheduled visitations;

participate in home-based counseling; complete a psychological evaluation; and meet all personal medical and mental health needs.

[28] FCM Williams, who worked with Mother for two years, testified that Mother failed to meet the requirements of the decree. First, Mother failed to maintain contact with DCS. Williams had to initiate contact and stated if she tried to contact Mother by texting or calling her or stopped by her house, “there’s just minimal contact, if any.” Tr., Vol. 2 at 21-22. Williams testified that Mother’s contact “continued to decrease over time” and Mother would not allow her to make announced or unannounced visits. *Id.* at 22. For example, the week prior to the fact-finding hearing, Williams went to Mother’s house for a visit. She heard individuals inside the house and called and texted Mother. She waited fifteen minutes and received no response. Williams stated, “The next day [Mother] texted me and said that I should call or text her if she wants to talk, and only about [Child], that I should not just show up.” *Id.* at 24.

[29] With respect to participation in services, Williams also testified that Mother had not completed any service or been successfully discharged from services she engaged in. *See id.* at 38. In August 2018, Mother completed a functional needs assessment with Lewellen to identify her skill set and needs, which revealed a “very wide range of skills needs” such as daily living skills, self-care, and budgeting. *Id.* at 63. Mother only completed two skills sessions and one family team meeting before she was discharged for lack of engagement. As a result, Lewellen testified that Mother “did not get very far in working on those goals[.]” *Id.*

[30] Mother completed one therapy session in September 2018 with Gibbs. After Mother failed to show for the next scheduled appointment, Gibbs set up transportation for Mother and rescheduled her appointment. However, Mother failed to attend or respond to any of Gibbs attempts to contact her. As a result, Gibbs discharged Mother from the services as unsuccessful. Mother did, however, complete a psychological evaluation several months later, which confirmed that she suffered from an intellectual disability. It was recommended that Mother participate in individual therapy once per week, case management, parenting education, skills support, and medication referral.

[31] Mother subsequently engaged in home-based counseling and met with Sprinkle approximately ten to twenty times from August 2019 to March 2020.

Eventually, Mother failed to maintain communication with Sprinkle; he would reach out to Mother, but she would not respond. He also went to her house, but no one answered the door despite him hearing people inside. Sprinkle testified that one week later, Mother said that “she had been depressed recently and she did not feel like seeing anybody or being around anybody.” *Id.* at 57. To Sprinkle’s knowledge, Mother never set up a neurology appointment to address her seizures or scheduled individual therapy. He discharged Mother in March 2020 as unsuccessful.

[32] Similarly, from November to December 2019, Mother had three home-based counseling sessions with Center. After the last visit, Center contacted Mother multiple times a week to no avail. He closed out her case in January 2020. Mother also failed to enroll in mental health programs offered to her; she was

referred to individual therapy in February 2020 but failed to participate at all or complete a parenting assessment. Ultimately, in over two years, Mother's compliance with the dispositional order and participation in services has been inconsistent.

[33] Second, Mother also failed to maintain safe and suitable housing. Prior to the instant matter, DCS had already been involved with Mother due to the unsanitary conditions of her home. When DCS responded to the most recent report in 2018, FCMs described the conditions of the home as “deplorable” with an extremely foul odor. *Id.* at 25. Although DCS had two to four prior unsubstantiated reports, “this time was just worse.” *Id.* at 14. The toilet was filled with feces and the floors of the home had multiple unsafe holes. In fact, a prior resident's bed had fallen through the floor. Chemical bottles were within the Child's reach; insect feces and cockroaches were observed on the walls throughout the home. There were seven dogs, two cats, and one rabbit without food.

[34] FCM Williams testified that a lot of the animals appeared unhealthy and sick. They were inside Mother's house in crates living in their own waste and Mother fed them Ramen noodles because she did not have any money to buy them appropriate food. Williams believed Mother's inability to care for the animals was indicative of her inability to care for Child. Williams testified, “Which then translates, . . . my concern for [Mother] to care for an independent being – or a dependent being of her. She had told me that [the animals] kept dying and she didn't know why [and] I tried to explain to her that she was of the cause of

that, but she appeared indifferent, like that she did not understand almost.” *Id.* at 29.

[35] Later, Mother moved to a new house. Williams visited the home and stated that the “conditions were better, but she still had excessive animals.” *Id.* at 26. The home met the minimum standards; it had running water, heat, food, no dangerous animals, a washer and dryer, and the ability to heat up food. But her concern was that “within just a short amount of time [after moving in], it was obvious that she still continued to have excessive animals, areas with animal urine and feces.” *Id.* at 28. The last time Williams inspected the home was January 22, 2020 during which time she observed a rug soaked in animal urine. Williams testified that, despite the improvement, Child was not returned to Mother “[b]ecause this was showing a pattern of [Mother’s] inability to maintain when she had just moved in months prior.” *Id.* at 36. Since that time, Williams had attempted to inspect the home, but had not been allowed inside.

[36] Finally, the record demonstrates that Mother has been unable to improve her ability to parent Child. Szerlong testified that Mother has a mild intellectual disability and an IQ of 63. Szerlong explained that in individuals with a lower score, “you’re going to start seeing an increase in difficulties in a variety of life factors, . . . difficulty in social situations, different difficulties in learning or academics[,]” as well as communication and interpersonal deficits. *Id.* at 77. With respect to parenting, Szerlong explained there may be “difficulty attending to a child’s needs or knowing what to do in novel situations[.]” *Id.* at 78. However, she stated that having a mild intellectual disability does not

render an individual incapable of living independently. Instead, it makes it more difficult. As a result of Mother's diagnosis, her service providers adapted to meet her deficits.⁴ Nonetheless, despite some services, Mother was unable to improve her ability to care for herself or Child.

[37] From May to August 2019, Burch supervised Mother's visitations. Black then took over and began supervising Mother's visitation. Burch and Black both testified that there was no evidence of a bond between Mother and Child. *See id.* at 83, 95. Child would often greet Mother or say he loves her. Often, Mother would not respond. If she did respond, it would only be after Child repeated it several times. Black supervised over fifty visits and testified that Mother was on her phone during more than half of the visits she supervised. She also stated there was "not a lot of interaction throughout the life of the case. It's very rare that [Mother] will greet [Child] at the beginning or the end of a visit. She does not show affection toward him, like hugging, giving a kiss, telling him that she loves him." *Id.* at 94-95.

[38] Similarly, during two and one-half months of virtual visits due to the COVID-19 pandemic, Black stated there were "long silences" and although she offered solutions, Mother would not follow her advice. *Id.* at 99. She worked with Mother on how to develop a bond and play with Child, but Mother did not improve in these areas. Neither Burch nor Black ever recommended

⁴ For example, Williams testified that she would accommodate Mother by repeating or rephrasing things or making lists.

unsupervised visitation. Both had safety concerns given that Mother would not hold Child's hand to prevent him from running into the street. Black believed unsupervised visits would be "detrimental to [Child]. There were many times in the car on the way to get [Mother] that [Child] would cry and throw a fit and refuse to go on the visit and beg [Black] to take him back." *Id.* at 98. And unfortunately, Burch "didn't feel that [Mother] was ready to move on with being alone with him." *Id.* at 84.

[39] We note that mental or cognitive disabilities, standing alone, are not a proper basis for the termination of parental rights; however, the juvenile court may consider such issue where a parent is incapable of fulfilling his or her legal obligation in caring for their child. *Z.B.*, 108 N.E.3d at 902. Here, the juvenile court concluded that termination of Mother's parental rights is the "result of a combination of failings and not as the result of a single incident or factor." *See* Appealed Order at 17. Given the evidence in the record of Mother's ongoing inability to care for herself or Child, inconsistent participation in services, and lack of bond, we conclude there is sufficient evidence to support the juvenile court's conclusion there is a reasonable probability that the conditions that led to Child's removal and continued placement outside Mother's care will not be remedied.⁵

⁵ The juvenile court also concluded there is a reasonable probability that the continuation of the parent-child relationship poses a risk to the well-being of Child. *See* Appealed Order at 16-17. Mother also challenges this conclusion. However, having already concluded the evidence is sufficient to show a reasonable probability

B. Best Interests

[40] Mother also challenges the juvenile court's conclusion that termination of her parental rights is in Child's best interests. She contends that "[g]iven the improvement in the home conditions, [her] continued work with her visit supervisor, and [her] record of success in a previous CHINS case," the juvenile court erred in its conclusion. Br. of Appellant at 20. We disagree.

[41] "Permanency is a central consideration in determining the best interests of a child." *In re G.Y.*, 904 N.E.2d 1257, 1265 (Ind. 2009). To determine the best interests of children, the juvenile court looks to the totality of the evidence and must subordinate the interests of the parents to those of the child. *In re D.D.*, 804 N.E.2d 258, 267 (Ind. Ct. App. 2004), *trans. denied*. The juvenile court need not wait until a child is irreversibly harmed before terminating parental rights. *McBride v. Monroe Cnty. Off. of Family & Child.*, 798 N.E.2d 185, 203 (Ind. Ct. App. 2003). Recommendations of the FCM and CASA, in addition to evidence that the conditions resulting in removal will not be remedied, are sufficient to show by clear and convincing evidence that termination is in the child's best interest. *In re A.S.*, 17 N.E.3d 994, 1005 (Ind. Ct. App. 2014), *trans. denied*.

that the conditions will not be remedied, we need not consider whether the parent-child relationship poses a threat to Child's well-being. See *In re L.S.*, 717 N.E.2d at 209; see also Ind. Code § 31-35-2-4(b)(2)(B).

[42] FCM Williams and CASA Harmless both testified that termination of Mother's parental rights is in Child's best interests. *See* Tr., Vol. 2 at 33, 102. Williams testified adoption was best for Child because Mother has failed to remedy the conditions that led to Child's removal. She testified that Mother "has not demonstrated that she can take care of a child safely. She is unable to meet her own needs, let alone a child that would be dependent of her. I have concerns for the unsanitary [conditions], posing a risk to the child's health." *Id.* at 34. Harmless testified that Child was currently in a pre-adoptive home and in his previous placement, "he made great strides with consistency, the services that they were able to provide for him on a consistent basis. And I feel like at this time, he needs permanency with adoption." *Id.* at 102.

[43] Having already concluded there is evidence that the conditions resulting in removal will not be remedied, *see supra*, at ¶ 39, this is sufficient evidence to support the juvenile court's conclusion that termination of Mother's parental rights is in Child's best interests. *See In re A.S.*, 17 N.E.3d at 1005.

Conclusion

[44] We conclude DCS presented sufficient evidence to support the juvenile court's order terminating Mother's parental rights to Child. Therefore, the order was not clearly erroneous, and the judgment of the juvenile court is affirmed.

[45] Affirmed.

Bailey, J., and Tavitas, J., concur.