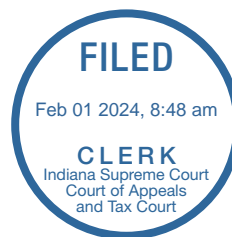


## MEMORANDUM DECISION

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 Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



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### ATTORNEY FOR APPELLANT

Nicole A. Zelin  
Pritzke & Davis, LLP  
Greenfield, Indiana

### ATTORNEYS FOR APPELLEE

Theodore E. Rokita  
Attorney General of Indiana

Abigail R. Recker  
Deputy Attorney General  
Indianapolis, Indiana

### ATTORNEY FOR APPELLEE CHILD ADVOCATES, INC.

Rachel Vilensky  
Indianapolis, Indiana

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## IN THE COURT OF APPEALS OF INDIANA

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In the Termination of the Parent-Child Relationship of: Ne.C., Na.C., Ca.C., and Ch.C. (Minor Children)

G.C. (Father),

*Appellant-Respondent,*

v.

Indiana Department of  
Child Services,

February 1, 2024

Court of Appeals Case No.  
23A-JT-1480

Appeal from the Hancock Superior  
Court

The Honorable Cody B. Coombs,  
Magistrate

Trial Court Cause Nos.  
30D01-2211-JT-330  
30D01-2211-JT-331  
30D01-2211-JT-332  
30D01-2211-JT-333

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*Appellee-Petitioner*

and

Child Advocates, Inc.

*Guardian Ad Litem*

**Memorandum Decision by Judge Weissmann**  
Chief Judge Altice and Judge Kenworthy concur.

**Weissmann, Judge.**

- [1] The Indiana Department of Child Services (DCS) removed four children (collectively, Children) from the care of their father, G.C. (Father), based on domestic violence, drug use, and mental health concerns. When Father did not complete reunification services and continued testing positive for drugs, his parental rights over Children were terminated. Father appeals, arguing that DCS presented insufficient evidence to support the termination and that he was denied due process. We reject Father’s arguments and affirm.

**Facts**

- [2] On March 4, 2020, DCS petitioned to adjudicate Children as children in need of services (CHINS). Children were then living with Father and his partner.<sup>1</sup>

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<sup>1</sup> Children’s biological mother does not appear in these proceedings.

DCS's filing followed repeated reports over the prior two years of domestic violence, drug use, and mental health concerns. After Children's removal from Father's home, Children were split up and placed in foster homes around the state.

[3] Children began receiving support services almost immediately. From the beginning, the therapists and other professionals working with Children observed problematic behaviors like depression and anger management issues. Father also voluntarily participated in services, including supervised visitation, a domestic violence assessment, and drug screening. While Father made initial progress in completing services aimed at reunification, the supervised visits between Children and Father did not go well. The supervising therapist reported that at least one of the children exhibited "heightened" stress in Father's presence. Tr. Vol. III, p. 206.

[4] After a fact-finding hearing, the trial court found that Children suffered significant mental health issues due to Father's care and had been exposed to incidents of domestic violence. The court determined that Children were CHINS and entered a dispositional decree maintaining Children's placement in foster care. The court also ordered Father to continue participating in services.

[5] After Father showed only sporadic progress in services, the trial court modified the dispositional decree to focus on Father receiving individual therapy. During therapy over the next two or three months, Father would not accept responsibility for the events that led to DCS's removal of Children. Father also

denied drug use, despite continuing to test positive for drugs. At the recommendation of Father's therapist, the trial court discontinued Father's visits with two of the children due to their "reactive behaviors" and until Father progressed with his own therapy. *Id.* at 128-29.

- [6] After that, Father completed parenting education and domestic violence programs while also participating in therapy. Father regularly attended supervised visitations with three of the children. Yet Father continued to test positive for drugs. Between January and October 2022, Father tested positive for amphetamine, methamphetamine, THC, and cocaine over a dozen times.
- [7] As time went on, Father fell more and more out of compliance. He no longer visited one of the children, and his supervised visits with the others continued to go poorly. Father soon was discharged from reunification services after he failed to attend therapy sessions or communicate with his therapist for two months. Father was also discharged from his drug abuse programs due to non-attendance. At this point, DCS petitioned to terminate Father's parental rights.
- [8] By spring 2023, Father was completely disengaged with reunification services. He was not submitting to random drug screens or participating in therapy, and he had been discharged from supervised visitation due to his failure to attend. Concerned about Father's credibility, the trial court ordered Father to submit an essay on honesty. Yet Father plagiarized his honesty essay, leading the court to find Father in contempt.

[9] By the termination hearing, Children each had been in several placements due to their behaviors. One child had been in ten placements, three of which were institutions. Children’s caseworkers and therapists agreed that terminating Father’s parental rights was in Children’s best interests. DCS’s proposed plan of care for Children was adoption. Each child’s foster parent either planned to adopt the child or were considering it.

[10] After several fact-finding hearings that Father did not attend, the trial court terminated Father’s parental rights.<sup>2</sup> The trial court concluded both that a reasonable probability existed that Father would not remedy the conditions resulting in Children’s removal and that continuation of the parent-child relationships posed a threat to Children’s wellbeing. The trial court also found that terminating Father’s parental rights was in Children’s best interests and that DCS’ plan of adoption was satisfactory.

## **Discussion and Decision**

[11] Father makes two arguments on appeal. He alleges that DCS did not adequately prove the statutory requirements for terminating his parental rights and, even if it did, he was denied due process through DCS’s failure to schedule group family therapy.

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<sup>2</sup> The trial court issued four identical termination orders for each child. For simplicity, this opinion refers to a singular termination order.

## I. Termination of Parental Rights

[12] The State faces a high burden to terminate parental rights. Put plainly, the State must prove that a child's parents are unable or unwilling to meet their parental responsibilities. *In re R.H.*, 892 N.E.2d 144, 149 (Ind. Ct. App. 2008).

[13] A petition to terminate parental rights must allege, in relevant 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 child in need of services;

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

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

Ind. Code § 31-35-2-4(b)(2). If the trial court finds these allegations are true by clear and convincing evidence, it must terminate the parent-child relationship.

Ind. Code §§ 31-35-2-8, -37-14-2. When reviewing a trial court's decision to terminate parental rights, we do not reweigh evidence or judge witness credibility. *In re R.S.*, 56 N.E.3d 625, 628 (Ind. 2016). The judgment will be set aside only if it is clearly erroneous. *Id.*

## **A. A Reasonable Probability Exists that Father Will Fail to Remedy Conditions Leading to Children’s Removal**

[14] Our analysis here requires two steps. *In re E.M.*, 4 N.E.3d 636, 643 (Ind. 2014). First, we identify the relevant conditions for Children’s removal, considering both the initial reasons but also the reasons for continued placement away from Father. *In re A.I.*, 825 N.E.2d 798, 807 (Ind. Ct. App. 2005). Second, we “determine whether there is a reasonable probability that those conditions will not be remedied.” *In re E.M.*, 4 N.E.3d at 643 (quoting *K.T.K. v. Ind. Dep’t of Child Servs.*, 989 N.E.2d 1225, 1230 (Ind. 2013)). Given its firsthand view as the factfinder, the trial court is entrusted with determining the “delicate balance” of a parent’s fitness at the time of the termination hearing. *Id.*

[15] Father does not challenge the trial court’s factual determinations that led to Children’s removal. Instead, in Father’s view, the evidence showed he “had clearly enhanced his ability to parent [Children]” and had been “consistent and engaged” with reunification services. Appellant’s Br., p. 12. But in making his argument, Father essentially cherry-picks isolated instances when he completed services or had a successful supervised visitation. Left unmentioned are the many examples of Father failing to complete required reunification services and the supervised visits that went so poorly that DCS was forced to call them off entirely. The trial court considered and weighed the facts before it and concluded there existed a reasonable probability that Father would not remedy the conditions leading to Children’s removal. Father’s argument here is an impermissible request for this Court to reweigh the evidence and reach a

different result.<sup>3</sup> *Matter of G.M.*, 71 N.E.3d 898, 906 (Ind. Ct. App. 2017) (“[Parent’s] arguments are invitations for us to reweigh the evidence . . . which we cannot do.”).

## **B. DCS Proposed a Satisfactory Plan for Children’s Care**

- [16] “Indiana courts have traditionally held that for a plan to be ‘satisfactory’ for purposes of the termination statute, it ‘need not be detailed, so long as it offers a general sense of the direction in which the child will be going after the parent-child relationship is terminated.’” *In re A.S.*, 17 N.E.3d 994, 1007 (Ind. Ct. App. 2014) (quoting *Lang v. Starke Cnty. Off. of Fam. & Child.*, 861 N.E.2d 366, 375 (Ind. Ct. App. 2007)).
- [17] DCS proposed a satisfactory plan for Children’s care and treatment. At the time of the termination hearing, adoption was Children’s plan of care. Though each child had experienced multiple placements throughout the state, their respective caregivers at the time of the hearing had expressed either a desire to adopt or a willingness to consider adoption.
- [18] Father attacks DCS’s plan of care by invoking the troubles Children have had in finding a permanent placement during these proceedings and by alleging the DCS employees who testified about the plan were not credible. Both of these

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<sup>3</sup> Although Father also challenges the trial court’s conclusion that there exists a reasonable probability that Children’s well-being will be harmed by the continuation of Father’s parental rights, we need not address this argument as the termination statute is written in the disjunctive, and the trial court’s findings under Indiana Code § 31-35-2-4(b)(2)(B)(i) are affirmed. *In re C.S.*, 190 N.E.3d 434, 438 (Ind. Ct. App. 2022)



arguments fail. First, Children’s early struggles in their temporary placements have little relevance to the adequacy of DCS’s current plan of care. At the time of the hearing, Children had stable placements. Every caregiver expressed either a willingness or an openness to eventual adoption. And as for Father’s second argument, it is simply another invitation to reweigh the credibility of the witnesses. Accordingly, Father has not established any clear error in the trial court’s conclusion that DCS had a satisfactory plan of care.

### **C. Termination Is in Children’s Best Interests**

[19] Whether the termination of parental rights is in Children’s best interests is determined by considering the “totality of the evidence.” *Matter of Ma.H.*, 134 N.E.3d 41, 49 (Ind. Ct. App. 2019). “Central among these interests is children’s need for permanency.” *Id.*

[20] As the State notes, Children have been removed from Father for over three years. And after working with Father and Children over that time, the social workers unanimously concluded that termination is in Children’s best interests. “Indeed, ‘children cannot wait indefinitely for [a parent] to work toward preservation or reunification.’” *Id.* (quoting *In re E.M.*, 4 N.E.3d 636, 648 (Ind. Ct. App. 2014)). Father’s only argument that Children’s best interests are not served by termination is that DCS’s plan of adoption is likely to fail. In light of our holding that DCS proposed a satisfactory plan of care, we affirm the trial court’s judgment that Children’s best interests lie with the termination of Father’s parental rights.

## II. Due Process

- [21] But even if clear and convincing evidence supports the termination of Father’s parental rights, the judgment may still be reversed if Father was denied due process. “Due process protections bar ‘state action that deprives a person of life, liberty, or property without a fair proceeding.’” *In re G.P.*, 4 N.E.3d 1158, 1165 (Ind. 2014) (quoting *In re C.G.*, 954 N.E.2d 910, 916 (Ind. 2011)).
- [22] DCS is required by law to make reasonable efforts to preserve or reunify the family over the course of a CHINS case. Ind. Code § 31-34-21-5.5. Father alleges that DCS did not make a reasonable effort, and thus he was denied due process, because DCS did not sponsor family therapy between him and his four children. To the contrary, DCS did sponsor therapy for Father and Children; it also arranged numerous supervised visits between them. Indeed, the record shows that Father and Children’s group therapy sessions were ended, in part, because of Father’s own need to progress in individual therapy. Thus, Father’s claim that he was denied access to family therapy has no grounding in the record.
- [23] Next, Father claims that the placement of Children throughout the state, instead of together, also violated his due process rights by making it next to impossible for him to visit them. But the record reflects otherwise. DCS made significant efforts to allow Father to visit Children. These efforts included transportation assistance, paying for Father’s travel expenses, and even bringing Children to Father. Thus, even assuming that Father was burdened by

Children's placement across the state, DCS made reasonable efforts to provide Father access to Children.

## **Conclusion**

[24] Finding no error in the termination of Father's parental rights or a violation of due process, we affirm.

Altice, C.J., and Kenworthy, J., concur.