

MEMORANDUM DECISION

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ATTORNEY FOR APPELLANT

Anne Medlin Lowe
Fugate Gangstad LLC
Carmel, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Abigail R. Recker
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

In the Matter of the Termination
of the Parent-Child Relationship
of J.B. and Ty.B. (Minor
Children);

C.B. (Mother),

Appellant-Respondent,

v.

Indiana Department of Child
Services,

Appellee-Petitioner.

June 29, 2022

Court of Appeals Case No.
21A-JT-2919

Appeal from the Vigo Circuit
Court

The Honorable Daniel W. Kelly,
Magistrate

Trial Court Cause Nos.
84C01-1804-JT-372
84C01-1804-JT-373

Najam, Judge.

Statement of the Case

- [1] C.B. (“Mother”) appeals the trial court’s order terminating her parental rights over her minor children, J.B. and Ty.B. (collectively, the “Children”). Mother raises one issue for our review, namely, whether the Indiana Department of Child Services (“DCS”) presented sufficient evidence to support the termination of her parental rights.
- [2] We affirm.

Facts and Procedural History

- [3] Mother has three children with J.B., Sr.¹ (“Father”): Ta.B.,² born on March 13, 2004; J.B., born on September 24, 2007; and Ty.B., born on June 22, 2009. The family’s involvement with child protective services dates back to 2007 and spans two states. DCS first became involved with the family in 2011. During years of proceedings, the trial court found Ta.B. and the Children to be children in need of services (“CHINS”) and, eventually, issued an order terminating Mother’s and Father’s (collectively, the “Parents”) parental rights to Ta.B. and the Children. The Parents appealed on due process grounds, and this Court reversed and remanded, finding that the Parents were “entitled to due process, which they did not receive below due to a myriad of errors.” *In the Termination*

¹ Father does not participate in this appeal. He passed away on January 19, 2021. *See* Tr. Vol. 2 at 102, 146.

² Ta.B., though intimately involved in this matter, does not participate in this appeal. Sometime between August and November 2021, DCS requested, and the court ordered, that Ta.B.’s case be dismissed “[d]ue to her [turning eighteen years old.]” Tr. Vol. 2 at 100, 142.

of the Parent-Child Relationship of Ta.B., J.B., and Ty.B. and C.B. (Mother) and J.B., Sr. (Father) v. Ind. Dep't of Child Servs., No. 19A-JT-678, slip op. at *1 (Ind. Ct. App. July 31, 2020). The lengthy facts and procedural history, that led to the CHINS adjudications and the first termination order, are taken from the Parents' first appeal and read as follows:

After [the family's] arrival in Indiana from Kentucky, it was discovered that Ta.B. had been the victim of sexual abuse by two adult cousins while living in Kentucky. By the age of eight, Ta.B. began acting out sexually toward her siblings and was aggressive with other children and adults too. DCS worked with the family to develop a safety plan, and Ta.B. began seeing a behavioral therapist. DCS eventually determined that Parents were not adequately responding to the dire situation, so DCS filed a CHINS petition in April 2012. Following a contested factfinding hearing, the trial court adjudicated the children CHINS in September 2012.

* * *

J.B. and Ty.B. remained in the home with Parents, and Ta.B. was placed at . . . a residential treatment facility.

* * *

At some point, Father began struggling with a drug addiction, which lead [sic] to arrests and charges in March and May 2014. He was in jail from May 17, 2014 through June 13, 2014, when he was released on bond. In April 2015, Father pled guilty to, among other things, Class D felony possession of methamphetamine and received a two-year suspended sentence. After a brief period of sobriety, Father relapsed and violated his

probation several times in late 2015 and 2016, resulting in several periods of incarceration.

. . . Ta.B. returned to Mother's care on May 30, 2014, for a trial home visit (THV) with intensive wraparound services. Mother fully complied with services, but Ta.B. continued to run away and act out. The THV ended in October 2014 when Ta.B. was placed in [an Evansville psychiatric children's center]. Ta.B. was diagnosed with oppositional defiant disorder, ADHD, and anxiety and prescribed several daily medications.

In July 2015, Ta.B. graduated from the [Evansville] program . . . and returned to [the] Parents' home for another THV. Father had agreed to go into residential treatment for his drug abuse, but he did not complete treatment.

On August 25, 2015, due to Father's continued use of methamphetamine and other illegal drugs, DCS filed new CHINS petitions involving Ty.B. and J.B. Shortly thereafter, Mother and Father admitted the allegations. To ensure the safety of the children, Father was removed from the family home until he could successfully complete an addictions program. All three children remained in Mother's care, and Father was not allowed to be with them unsupervised. Thereafter, while Father continued to struggle with drug abuse and related incarcerations, Mother engaged in services and improved her ability to parent.

On March 14, 2016, after Father had been out of jail for about a month, DCS filed an information for rule to show cause, alleging that . . . Mother had permitted Father in the family home, Father had not completed an addictions program, and Father had unsupervised contact with the children. Around this time, service providers noted a decline in overall family function, including an increase in Ta.B.'s negative behaviors and a decline in Mother's parenting.

While the contempt hearing was pending, the children were removed from Mother's home on an emergency basis on March 22, 2016. The court held a detention hearing two days later and returned Ty.B. and J.B. to Mother's care. Ta.B. remained outside the home, [was] placed in kinship care and, when that failed, [a h]ospital awaiting placement at [a children's home that specialized in sexually maladaptive youth]. The contempt hearing was dismissed.

Following another information for rule to show cause filed in June 2016, Father was found in contempt for continuing to use methamphetamine and for violating the safety plan on multiple occasions. The court did not find Mother in contempt, noting that she had complied with the court's orders. By this time, Father was incarcerated again.

After his release from incarceration in August 2016, Father asked the court to allow him to live in the family home again with Mother and Ty.B. and J.B. The trial court denied his request until Father could demonstrate a reasonable period of sobriety and compliance with court-ordered services. The very next day, Father was discovered alone in the home with Ty.B. and J.B., while under the influence of methamphetamine.

By January 2017, DCS began recommending removal of Ty.B. and J.B. from Mother's home, as her compliance with services had diminished, Ty.B. and J.B. continued to have unsupervised contact with Father who lived down the road (when not incarcerated), the children lacked appropriate supervision in general, and Ta.B. was demonstrating a great deal of behavioral and emotional issues in the home and at school. Providers believed that Ty.B.'s issues stemmed from past trauma but that the lack of structure and supervision in the home contributed to the ongoing nature of the issues. Following a review hearing on February 2, 2017, the court found that Mother and Father were not in compliance with the case plan but denied DCS's oral

motion for placement of Ty.B. and J.B. in therapeutic foster care because no formal written motion had been filed.

[O]n February 11, 2017, Mother was arrested following a physical altercation with an adult relative. Father was also incarcerated at the time. Ty.B. and J.B. were taken into emergency custody by DCS and were placed together in foster care. They have never been returned to Mother's care. After Ty.B. ran away from the foster home in October 2017, she and J.B. were moved to separate residential facilities, and J.B. was later placed in a therapeutic foster home. Ty.B. has remained in treatment facilities, as she suffers from many of the same behavioral and emotional issues as Ta.B.

Following a review hearing on January 4, 2018, the court found that Mother and Father had not complied with the case plan and, on DCS's motion, changed the permanency plan to termination of parental rights and adoption. [O]n April 19, 2018, DCS filed the instant petitions for the involuntary termination of parental rights. In the CHINS proceedings, on May 9, 2018, DCS filed a motion to modify the dispositional decree to stop all services to the [P]arents, including visitation. Along with the motion, DCS filed a detailed modification report that noted, in part, that Father was once again incarcerated, Father continued to use methamphetamine, Parents were facing eviction from their apartment, and they had not been compliant with services "for the better part of the past 8 months and partially compliant throughout the life of the (5.5 years) case."

Id. at *1-3 (internal citations and footnotes omitted).

[4] The trial court held a combined hearing in the termination of parental rights ("TPR") and CHINS cases on May 15, 2018. Following the hearing, the court entered a finding in the CHINS cases that reasonable efforts for family

preservation or reunification were not required because the permanency plan had changed to adoption, visits were harmful to Ta.B. and the Children, and their behavior was better when Mother was not visiting. In August 2018, the trial court ended all services and visitation with the Parents. On February 13, 2019, the court issued its order terminating the Parents' parental rights to the Children. The Parents separately appealed, and on July 31, 2020, this Court reversed and remanded the termination of the Parents' parental rights on due process grounds. *Id.* at *1.

[5] On September 16, 2020, DCS filed a second petition to terminate the Parents' parental rights; the trial court held an initial hearing on September 29; and the court held fact-finding hearings on July 12, 2021, August 9, 2021, and November 15, 2021. At some point, the TPR case for Ta.B. was dismissed, as she was months away from turning eighteen years old and had expressed a desire to live with Mother. On November 19, 2021, the trial court entered the following findings of fact and conclusions thereon:

f. There is a reasonable probability that the conditions which resulted in the removal of the [C]hildren from [the Parents] will not be remedied or the reasons for placement outside of the home of the [P]arents will not be remedied or that the continuation of the parent-child relationship poses a threat to the well-being of the [C]hildren as follows:

* * *

30. Mother never demonstrated an ability to properly supervise the [C]hildren. In addition to her inability to

prevent the children from engaging in sexual activity with each other, she also was unable to keep them in the home or to keep track of them when they went outside. When she was only around six (6) years old, [Ty.B.] would frequently be found after having crossed a busy street to reach a convenience store where she would ask strangers for food. This resulted in repeated calls to the police.

* * *

33. Throughout the case, Mother has lacked financial stability and has, at times been homeless, while at other times she has lived in residences that were below minimum sufficient standards and frequently lacked utilities. On the final day of evidence in the previous TPR fact-finding hearing (February 11, 2019), Mother was asked how she intended to support her three children if they were placed back with her. She stated, “If I don’t get my disability, I’ll go out and find a job. That’s how bad I want my kids.”

34. While the court had an order in place to keep [Father] from the children due to his continual meth[amphetamine] use and non-compliance, Mother acknowledged that her children were likely going every day to see Father at his campsite that he was living at for a time. She did not seem to recognize her parental responsibility to prevent this in order to protect them.

35. Kylie Hickmon was the permanency caseworker assigned to the . . . family from March 2017 to March 2020. Shortly after she received the case, Mother tested positive for marijuana and [DCS Family Case Manager (“FCM”)] Hickmon requested that both parents submit to

random drug screens and submit to psychological evaluations. . . .

36. A modification hearing was held on May 15, 2018, at which time the court stopped services, including visitation. The parents had left the State of Indiana from September to December, 2017. FCM Kylie Hickmon described the [C]hildren’s progress during this period as “fantastic.” This allowed service providers and DCS and [the Court Appointed Child Advocate (“CASA”)] to compare the [C]hildren’s behavior when parents were not visiting to when they were. Prior to and after visits, there was a demonstrable escalation of negative behaviors from [Ta.B. and the C]hildren. . . . Within twenty-four (24) hours of [Ta.B.’s] first visit with [Father] in ten (10) months, she got into a fight. Her behavior in placement consistently deteriorated prior to visits. [J.B.] started showing sexualized behaviors in his placement. [Ty.B.] was at Wellstone treatment facility and the facility wanted the visits stopped due to her adverse reactions from visits. She attempted suicide on December 17, 2017, and again on February 16, 2018, when she knew she was going to be having visits. The evidence indicated that Mother was minimally compliant with her therapy services at this time. After leaving the state from September to December, 2017, she didn’t resume any therapy until April 2018. During visits she had to repeatedly be told to stop eating her children’s lunch. The facility ultimately had to serve lunch before the visits to stop this. . . . CASA Jennifer Moore testified that [Mother] was dishonest with the [C]hildren about her compliance and lead [sic] them to believe they were about to come home.

37. On February 11, 2019, Mother testified that she had been living in a tent until approximately two months ago, when it got too cold to stay there. She said that someone

from the VA gave her a ride to the local CODA shelter[, a placement for abused women,] where she has been staying since then. She takes medication for depression and anxiety and “can’t think about doing a job because my depression stops it.” In addition, the CASA testified that Mother has low cognitive functioning, which makes it difficult for her to meet her own most basic needs. . . . Despite full awareness of Father’s meth[amphetamine] addiction and DCS continuously admonishing her to protect the [C]hildren from Father, [Mother] testified at a termination fact-finding hearing in 2019 that, “I don’t know why they wanted me to keep him away from the [C]hildren.” [Father] was a substantiated sexual abuser who was non-compliant with services and used methamphetamine on a regular basis. CASA Jennifer Moore testified that [Mother] did not seem capable of understanding how badly the children had been damaged.

38. At present, after years in residential treatment, [Ta.B.] is in a foster home in Lawrence, Indiana, and attends the public school there. [J.B.] is in a pre-adoptive foster home and is doing very well. He is happy and a good student at school. He testified that he wants to be adopted. [Ty.B.] is in residential treatment and has been extremely aggressive. She displays many sexualized behaviors, such as openly masturbating and rubbing herself against objects for sexual stimulation. A rule was instituted by her facility, T.C. Harris, requiring her to stay at least five (5) feet from other residents at all times. In recent months, [Ty.B.] has shown improvement and has been stepped down in a group home at T.C. Harris.

39. All of the . . . children, including [J.B.] and [Ty.B.], as well as children not part of these proceedings, have been subjected to severe and repeated trauma, and the evidence indicated they are all likely to require intensive care for

years to come in order to live happy, productive lives. [Father] is now deceased and [Mother] struggles to care for herself. Low cognitive functioning, her own history of sexual abuse, severe depression and anxiety, lack of adequate income, lack of resources, and an inability to benefit from the vast array of services offered, all make sadly manifest the fact that she cannot provide the [C]hildren's basic needs. Consequently, after nine (9) years of her children being in care, DCS has demonstrated by clear and convincing evidence that there is a reasonable probability that the conditions that resulted in the [C]hildren's removal *and* the reasons for placement outside of their mother's home will not be remedied.

40. For all of the foregoing reasons, DCS has also demonstrated by clear and convincing evidence that there is a reasonable probability that continuation of the parent-child relationship poses a threat to the well-being of [J.B.] and [Ty.B.].

g. Termination is in the best interests of the [C]hildren as testified to by multiple DCS case managers and CASAs.

Appellant's App. Vol. 2 at 191-199 (emphasis in original). The court also found that DCS had a satisfactory plan for the care and treatment of the Children, which was adoption. Accordingly, the court terminated Mother's parental rights over the Children. This appeal ensued.

Discussion and Decision

Standard of Review

[6] Mother challenges the trial court’s termination of her parental rights over the Children. We begin our review of this issue by acknowledging that “[t]he traditional right of parents to establish a home and raise their children is protected by the Fourteenth Amendment of the United States Constitution.” *Bailey v. Tippecanoe Div. of Fam. & Child. (In re M.B.)*, 666 N.E.2d 73, 76 (Ind. Ct. App. 1996), *trans. denied*. However, a trial court must subordinate the interests of the parents to those of the child when evaluating the circumstances surrounding a termination. *Schultz v. Porter Cnty. Off. of Fam. & Child. (In re K.S.)*, 750 N.E.2d 832, 837 (Ind. Ct. App. 2001). Termination of a parent-child relationship is proper where a child’s emotional and physical development is threatened. *Id.* Although the right to raise one’s own child should not be terminated solely because there is a better home available for the child, parental rights may be terminated when a parent is unable or unwilling to meet his or her parental responsibilities. *Id.* at 836.

[7] Before an involuntary termination of parental rights can occur in Indiana, 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; and

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

Ind. Code § 31-35-2-4(b)(2) (2021). DCS’s “burden of proof in termination of parental rights cases is one of ‘clear and convincing evidence.’” *R.Y. v. Ind. Dep’t of Child Servs. (In re G.Y.)*, 904 N.E.2d 1257, 1260-61 (Ind. 2009) (quoting I.C. § 31-37-14-2).

[8] When reviewing a termination of parental rights, we will not reweigh the evidence or judge the credibility of the witnesses. *Peterson v. Marion Cnty. Off. of Fam. & Child. (In re D.D.)*, 804 N.E.2d 258, 265 (Ind. Ct. App. 2004), *trans. denied*. Instead, we consider only the evidence and reasonable inferences 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 court’s judgment terminating a parent-child relationship only if it is clearly erroneous. *Judy S. v. Noble Cnty. Off. of Fam. & Child. (In re L.S.)*, 717 N.E.2d 204, 208 (Ind. Ct. App. 1999), *trans. denied*.

[9] Here, in terminating Mother’s parental rights, the trial court entered extensive findings of fact and conclusions thereon. When a trial court’s judgment

contains special findings and conclusions, we apply a two-tiered standard of review. *Bester v. Lake Cnty. Off. of Fam. & Child.*, 839 N.E.2d 143, 147 (Ind. 2005). First, we determine whether the evidence supports the findings and, second, we determine whether the findings support the judgment. *Id.*

“Findings are clearly erroneous only when the record contains no facts to support them either directly or by inference.” *Quillen v. Quillen*, 671 N.E.2d 98, 102 (Ind. 1996). If the evidence and inferences support the trial court’s decision, we must affirm. *In re L.S.*, 717 N.E.2d at 208.

[10] Mother does not challenge any of the trial court’s findings. As such, they are accepted as true. *See L.M. v. Ind. Dep’t of Child. Servs. (In re S.S.)*, 120 N.E.3d 605, 610 (Ind. Ct. App. 2019). Instead, Mother challenges the trial court’s conclusions that (1) the conditions that resulted in the Children’s removal and the reasons for their placement outside of Mother’s home will not be remedied and (2) that there is a reasonable probability that the continuation of the parent-child relationships poses a threat to the well-being of the Children. However, as Indiana Code Section 31-35-2-4(b)(2)(B) is written in the disjunctive, we need only address on appeal the sufficiency of the evidence to support one prong of that subsection of the statute. Accordingly, we address whether DCS presented sufficient evidence to prove that the conditions that resulted in the Children’s removal and the reasons for their placement outside of Mother’s home will not be remedied. We also address Mother’s contention that termination of her parental rights is not in the Children’s best interests.

Reasons for the Children's Placement Outside of Mother's Home

[11] Mother contends that DCS did not present sufficient evidence to prove that the reasons for the Children's placement outside of the home will not be remedied. According to Mother, the record "does not support the trial court's conclusion that Mother cannot supervise the Children or provide for their basic needs." Appellant's Br. at 16. Mother also argues that "Father's behavior was a significant part of the reason the Children were removed." *Id.* And now that Father is deceased, she asserts that his transgressions, specifically, his "drug use, possible sexual abuse, incarcerations, and poor financial decisions[,] should not control the determination as to whether Mother's rights should be terminated[,] as those "conditions" have been "sufficiently remedied to create a reasonable doubt" regarding whether the Children will suffer any "future harm." *Id.* at 16-17.

[12] This Court has clarified that, given the wording of the statute, it is not just the basis for the initial removal of the child that may be considered for purposes of determining whether a parent's rights should be terminated, but also any basis resulting in the continued placement outside of a parent's home. *Inkenhaus v. Vanderburgh Cnty. Off. of Fam. & Child. (In re A.I.)*, 825 N.E.2d 798, 806 (Ind. Ct. App. 2005), *trans. denied*. Here, the trial court properly considered the conditions leading to the continued placement of the Children outside of Mother's home. Put simply, Mother has not demonstrated any willingness or ability to provide a stable home for the Children.

[13] We hold that the evidence supports the trial court’s findings and conclusion on this issue. To determine whether there is a reasonable probability that the reasons for Children’s continued placement outside of Mother’s home will not be remedied, the trial court should judge Mother’s fitness to care for the Children at the time of the termination hearing, taking into consideration evidence of changed conditions. *See E.M. v. Ind. Dep’t of Child Servs. (In re E.M.)*, 4 N.E.3d 636, 643 (Ind. 2014). However, the court must also “evaluate the parent’s habitual patterns of conduct to determine the probability of future neglect or deprivation of the child[ren].” *Moore v. Jasper Cnty. Dep’t of Child Servs.*, 894 N.E.2d 218, 226 (Ind. Ct. App. 2008) (quotations and citations omitted). Pursuant to this rule, 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. *Id.* Moreover, DCS is not required to rule out all possibilities of change; rather, it need establish only that there is a reasonable probability the parent’s behavior will not change. *Id.*

[14] Mother has not demonstrated that the court erred when it concluded that she will not remedy the conditions that resulted in the Children’s removal. While Father’s drug use was one reason the Children were removed from the Parents’ care in February 2017, other reasons included that Mother was involved in a physical altercation with an adult relative and was arrested, Mother was unable to properly supervise the Children, and Mother lacked the parenting skills to deal with the Children’s substantial behavioral challenges. And while Mother

has been involved with DCS since 2011 and has had some nine years to improve her behavior, sadly, she has failed to make sustained, meaningful progress in her ability to supervise the Children and manage their ongoing behavioral challenges. Mother was provided a plethora of services, including family therapy and cognitive behavioral therapy, and it was recommended that she attend an anxiety/depression group. However, Mother either did not consistently participate in the services or did not participate at all, and “there was a lack of follow through” on Mother’s part. Tr. Vol. 2 at 154. Some service providers closed out Mother’s services due to her lack of compliance.

[15] Between June 2017 and May 2018, Mother submitted twenty-two drug screens, and she tested positive for marijuana twelve times. Her last failed drug screen occurred on May 21, 2018, and Mother had not screened since, as her services were discontinued.

[16] Regarding her ability to care for herself and maintain adequate income and housing, Mother continues to struggle. She has low cognitive functioning, suffers from severe depression and anxiety, and takes several medications for her mental health issues. Mother has not been employed since 2006, she is unable to work due to her depression and anxiety, and her only source of income consists of \$749 per month in Social Security disability benefits. Mother’s housing situation has been unstable at best. For two years, in 2017 and 2018, Mother lived in the woods in a tent. In 2019, she moved to a shelter for abused women and lived in group housing. She left the shelter and became a resident at the Mental Health of America facility because she had nowhere

else to live. At the time the termination hearings took place in 2021, Mother was living in a two-bedroom apartment with a roommate. A few months prior to the hearings, two additional individuals were also living in the apartment. The monthly rent for the apartment is \$550.

[17] Furthermore, Mother has not demonstrated that she can properly supervise the Children, given their history of sexual abuse by Ta.B. and other individuals and their ongoing behavioral challenges. Ta.B., who is still undergoing therapy, testified that she planned to return to Mother's home after she turned eighteen years old. And, at the time of the 2021 termination hearings, Ty.B. was not allowed within five feet of any person due to her sexualized behaviors.

[18] Mother's arguments on appeal are simply an invitation for this Court to reweigh the evidence and judge the credibility of the witnesses, which we cannot do. Based on the totality of the circumstances, we hold that the trial court's findings support its conclusion that there is a reasonable probability that the conditions that resulted in the Children's removal and the reasons for their placement outside of Mother's home will not be remedied.

Best Interests

[19] In determining what is in a child's best interests, a court is required to look beyond the factors identified by DCS and consider the totality of the evidence. *A.S. v. Ind. Dep't of Child Servs. (In re A.K.)*, 924 N.E.2d 212, 223 (Ind. Ct. App. 2010). A parent's historical inability to provide "adequate housing, stability,

and supervision,” in addition to the parent’s current inability to do so, supports finding termination of parental rights is in the best interests of the child. *Id.*

[20] When making its decision, the court must subordinate the interests of the parents to those of the child. *See Stewart v. Ind. Dep’t of Child Servs. (In re J.S.)*, 906 N.E.2d 226, 236 (Ind. Ct. App. 2009). “The court need not wait until a child is irreversibly harmed before terminating the parent-child relationship.” *Id.* Moreover, this Court has previously held that recommendations of the family case manager and court-appointed special advocate to terminate parental rights, coupled with 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 interests. *Id.*

[21] In her brief on appeal, Mother asserts that

the record shows that [she] took positive steps and made a good-faith effort to better herself as a person and as a parent[, and that w]hile it is true that [she] continues to struggle with mental health problems and poverty, the record shows that she has worked hard to complete mental health services and find suitable housing.

Appellant’s Br. at 18 (internal quotation marks and citations omitted). Mother acknowledges that “J.B. testified that he is happy living with his foster family and would like to be adopted by them.” *Id.* at 19. But she argues that “the fact that a child has a closer relationship with his foster parents than he does with his biological parent does not itself support a conclusion that termination is in the child’s best interests.” *Id.*; *see also, In re G.Y.*, 904 N.E.2d at 1265.

[22] Once again, Mother asks that we reweigh the evidence. At the time of the 2021 termination hearings, the Children had been removed from Mother's care for over four years. Mother testified that she had not seen the Children in three years and that she did not know the specific nature of Ty.B.'s mental health and behavioral diagnoses. She also testified that, regarding the Children, she does not know which schools they attend, the names of their doctors, or the medications they have been prescribed.

[23] DCS FCM Hickmon, who worked with the family from March 2017 until March 2020, testified that termination is in the Children's best interests. She told the court that she was particularly concerned with Ta.B.'s plan to return to Mother's home

[b]ecause there's already been incidents where [Ta.B.] has been showing grooming behavior while in the foster home. And just due to the history of [Mother's] lack of supervision. I fear that that grooming behavior could happen on [Ta.B.'s] siblings again. And with the history of lack of supervision there would be no way to keep [J.B.] or [Ty.B.] safe from that happening again.

Tr. Vol. 2 at 152-53. FCM Hickmon further testified that she believed DCS had "exhausted every effort . . . to try to" reunify Mother with the Children. *Id.* at 154. DCS FCM Tracy Fritz, who began working with the family around November 2021, testified that termination was in the Children's best interests because Mother was not "capable of meeting the kids' needs of safety, stability and permanency and well-being[.]" *Id.* at 147.

[24] The Children’s CASA, Brittany Smith, also testified that termination of Mother’s parental rights was in the Children’s best interests. CASA Smith testified that [J.B.] “loves being [with his foster placement,]” has “bonded to that home[,]” and wants to be a “part of [that] family.” *Id.* at 190. Regarding [Ty.B.], CASA Smith testified that she was in a “residential facility [that] specialize[d] in children who have . . . autism . . . and certain issues.” *Id.* at 190-91. She further testified that [Ty.B.] “would like to be adopted” and has “made great strides towards going to the group home and she has been excited about that aspect. [S]o, I think that once she successfully completes that and is put on the adoption website that somebody would give her a great home.” *Id.* at 191. However, CASA Smith also testified that “[Ty.B.] . . . is very slow to talk. She would almost rather be watching videos or something while we’re visiting. [S]he has opened up just a little bit, but it’s taken her some time to trust.” *Id.* at 189-90. CASA Smith also testified to her concerns regarding the Children living in Mother’s two-bedroom apartment. She told the court that she did not believe it would be appropriate for the Children to share a bedroom and that there was “no way” that the five-foot rule that is in place for Ty.B. could be enforced. *Id.* at 192. The CASA told the court that “at this point[, the Children] deserve permanency and to start to learn what it’s like to be without the system in their lives.” *Id.* at 193.

[25] In sum, as the trial court’s findings demonstrate, Mother has not shown that she is capable of parenting the Children. J.B. is thriving in his pre-adoptive home, and Ty.B. is making considerable progress with her behavioral challenges. The

FCEMs and the CASA all testified that termination of Mother's parental rights is in the Children's best interests. Given the totality of the evidence, Mother has not shown that the trial court erred when it concluded that termination of her rights is in the Children's best interests.

Conclusion

[26] DCS has shown by clear and convincing evidence that there is a reasonable probability that the conditions that resulted in the Children's removal or the reasons for placement outside of Mother's home will not be remedied. DCS has also shown by clear and convincing evidence that termination of Mother's parental rights is in the Children's best interests. We hold that the trial court did not err when it terminated Mother's parental rights.

[27] Affirmed.

Bradford, C.J., and Bailey, J., concur.