MEMORANDUM DECISION

ATTORNEY FOR APPELLANT

Johnathon H. Holley
Ethan D. Myers
Holley & Myers Law
Covington, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

David E. Corey
Supervising Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

In the Matter of the Involuntary Termination of the Parent-Child Relationship of:

L.O., S.O., and K.O. (Minor Children),

and

R.O. (Mother)

Appellant-Respondent,

v.

August 7, 2023

Court of Appeals Case No. 22A-JT-3078

Appeal from the Parke Circuit Court

The Honorable Samuel A. Swaim, Judge

Trial Court Cause Nos.
61C01-2203-JT-21
61C01-2203-JT-22
61C01-2203-JT-23

Indiana Department of Child Services,
Appellee-Petitioner.

Memorandum Decision by Judge Bailey
Judges Tavitas and Kenworthy concur.

Bailey, Judge.

Case Summary

[1] R.O. ("Mother") appeals the trial court's judgment terminating her parental rights to her three youngest children, L.O., S.O., and K.O.[1] We affirm.

Issues

[2] Mother raises two issues on appeal which we restate as follows:

I. Whether the trial court abused its discretion when it denied Mother's motion to dismiss the termination of

[1] J.O., Sr. ("Father") consented to the adoption of the children and does not participate in this appeal.

parental rights ("TPR") action on the ground that the final hearing was not held within the statutory time frame.

II. Whether the TPR order is clearly erroneous.

Facts and Procedural History

[3] Mother and Father (collectively, "Parents") are married and have six children. The oldest children are: J.O., born July 9, 2005; D.O., born October 19, 2006; and J.O., Jr. ("Jr."), born July 30, 2008. The youngest children are: L.O., born July 25, 2011; S.O., born October 13, 2012; and K.O., born December 24, 2020. There is a history of the Indiana Department of Child Services' ("DCS") involvement with the family. In 2009, DCS investigated neglect of the oldest child, J.O., for failure to thrive; J.O. had unexplained weight loss, and Parents had refused to take her for necessary doctor's visits and obtain necessary immunizations.[2] In 2017, DCS filed an in-home Children in Need of Services ("CHINS") petition for the five oldest children due to substantiated neglect—specifically, the filthiness of the five children and the family's home and Father's uncontrolled mental health issues. After a period of twenty-two months, during which DCS provided services to the family, the CHINS case was closed.

[2] The record does not disclose the disposition of DCS's 2009 investigation.

[4] However, within months of the closure of the 2017 CHINS case, DCS began to receive reports concerning the five children. In May 2020, DCS received a report that Parents had abandoned the five children. Upon investigation, DCS discovered that: Parents were using illegal substances; the children were not enrolled in or attending school; the family home was filthy and lacked food, beds, and furniture; the children were "dirty and unkempt," Ex. v. IV at 96-97; Parents were unemployed; and Parents both tested positive for illegal substances. Parents refused to sign releases or consents or allow DCS to check the home until ordered to do so by the court.

[5] On August 25, 2020, DCS filed a CHINS petition for all five children, alleging the children were endangered due to neglect, including: illicit drug use by Parents; educational neglect; filthiness of the children; unsafe and unsanitary family residence; lack of supervision; and history of DCS involvement. The five children were detained and removed from the home.

[6] Parents' youngest child, K.O., was born on December 24, 2020. At the hospital, Father was hallucinating and alleging the government and others were "following him." Appealed Order at 3. DCS filed a CHINS petition regarding K.O., alleging neglect based on: Father's mental health being uncontrolled and a danger to the child; the family home being unsafe; Parents' recent history of illegal drug use; Parents' unemployment; and Parents' history of DCS involvement with their other children. The court approved the removal and detention of K.O.

[7] On January 13, 2021, the court conducted a fact-finding hearing regarding all six children and determined that they were CHINS based on findings that included: "Father's mental health and drug use is so severe and untreated that Children should not be in his care;… Mother fails to protect the Children by enabling and failing to intervene with Father and his behaviors, which results in a threat to the Children;" the children and their educations were neglected; and Parents were unemployed and had "no financial ability to adequately provide for themselves or the Children." Ex. v. IV at 167. At the subsequent dispositional hearing, Parents were ordered to cooperate with DCS and engage in specified services, including:

> j. Maintain suitable, safe[,] and stable housing with adequate bedding, functional utilities, adequate supplies of food and food preparation facilities. Keep the family residence in a manner that is structurally sound, sanitary, clean, free from clutter and safe for the children.
>
> k. Secure and maintain a legal and stable source of income, …
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> * * *
>
> m. Ensure that the children are properly clothed, fed and supervised. If they are of school age, ensure the children are properly registered/enrolled in and attending school …
>
> n. Not use… illegal controlled substances….
>
> * * *

s. Complete a parenting assessment and successfully complete all recommendations …

t. Complete a substance abuse assessment and follow all treatments and successfully complete all treatment recommendations.

u. Submit to random drug screens. …

v. Complete a psychological evaluation(s) … and successfully complete any recommendations …

* * *

[f]f. …engage in and complete home-based case management services.

Id. at 3-4.

[8] At a May 17, 2021, periodic case review, the trial court found that Mother had only partially complied with the case plan. Mother had "not consistently called in for drug screens as required[,] …[and] had several positive drug screens for no-call/no show[;]" Mother had "been continuously ignoring the DCS's rules …[;]" Mother was "not engaging in the parenting assessment[;] …" and Mother did "not recognize any problems with her parenting skills…" *Id*. at 223-24. At the August 16, 2021, permanency hearing, the trial court found that Mother had: failed to call DCS to verify if she had any random drug screens; "not obtained stable housing for the family[;]" met with home-based workers, but "fail[ed] to recognize any problems [and, c]onsequently, there ha[d] been no

progress[;]" "refuse[d] to provide DCS with information pertaining to where she [was] residing[, and it was] believed that she [was] living in her van." Ex. v. V at 34. The trial court changed the permanency plan from reunification with Parents to reunification plus a concurrent plan of adoption for Jr., L.O., S.O., and K.O.

[9] At a November 8, 2021, period case review, the trial court found that Mother had not complied with the case plan. Specifically, Mother was participating in services but making "no progress." *Id*. at 60. Mother had "not cooperated with DCS [and was] untruthful when providing answers to DCS and service providers." *Id*. at 61. Mother was not truthful about her participation in "an extra-marital relationship with someone who [was] an unapproved caregiver[,]" i.e., Sean Rice. *Id*. at 60. Mother failed to provide DCS with requested financial information, and she had "not secured stable and safe housing for the children." *Id*. at 60-61. At a May 6, 2022, period case review, the trial court found that Mother had engaged in services but still failed to make progress in those services.

[10] Following an August 1, 2022, permanency hearing in the CHINS action, the trial court found that Mother had "not complied with the children's case plan." *Id*. at 167. The court found that, although Mother participated in services, "no progress is being made in her services." *Id*. The court found that "the same underlying conditions [of a] dirty home, lack of supervision, [and] instability" existed. *Id*. The court further found that Mother was not being honest with DCS or the Court Appointed Special Advocate ("CASA"), and Mother

"continu[ed] to violate her safety plan by secretly engaging in a relationship with a person incarcerated for drug charges." *Id*.

[11] On March 7, 2022, DCS filed a petition for the involuntary termination of Parents' rights as to the three youngest children, L.O., S.O., and K.O. (hereinafter, "Children").[3] Following an initial hearing on March 28, the trial court set the TPR petition for a hearing on May 6 and July 28. At the May 6 termination hearing, Father requested appointed counsel, an attorney indicated he would be filing an appearance for Mother, and DCS requested a continuance. The court granted the request for appointed counsel and request for continuance. The court set the TPR action for a two-day hearing commencing July 28.

[12] On July 14, DCS filed a motion for continuance of the July 28 hearing in order to "attempt[] informal mediation with [M]other and [F]ather's counsel." App. at 53. The motion noted that "Mother and Father's attorneys do not object." *Id*. In an order dated July 20, 2022, the trial court granted the motion for continuance and rescheduled the two-day termination hearing to commence on September 28, 2022. There was no objection to the July 20 order.

[13] At the commencement of the September 28 termination hearing, Mother's counsel made an oral motion—later followed by a written motion—to dismiss

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[3] DCS did not pursue termination for the three oldest children because, due to their ages, they did not have the same "safety [needs] and risk" as the three youngest children. Tr. v. II at 141-42.

the petition for failure to complete a hearing within 180 days of the petition. Although counsel acknowledged that he had been "okay with a continuance," he asserted that he "did not waive the hundred and eighty day time requirement." Tr. v. II at 13. The trial court denied the motion to dismiss on the grounds that Parents agreed to the continuance and there was "good cause to continue" the hearing. *Id*. at 15.

[14] At the September 28 and 29 termination hearing, DCS presented testimony of witnesses, including Megan John, the Family Case Manager ("FCM"); Jennifer Roach, Children's therapist; Debra Tolle, the home-based therapist for Mother; Taylor Johnson, the home-based case worker; and Christine Allee, the CASA. At the time of the termination hearing, Mother and Father were still married. Mother was employed and intended to rely upon Father to provide care for Children while Mother worked; however, CASA Allee testified that Father was not an appropriate care giver. During most of the CHINS proceedings, Mother did not have appropriate housing for Children and lied to CASA Allee about having applied for housing. By the time of the termination hearing, Mother had housing with enough beds for Children, but the housing had "gradually declined in its cleanliness." Appealed Order at 17. The CASA had observed a "strong odor in the home[,]" a filthy refrigerator with "really old food[,]" and animal feces on the floor of the home.[4] Tr. v. III at 108.

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[4] Contrary to Mother's assertion, FCM John did not testify that Mother had obtained "appropriate" housing, only that she had obtained housing. Appellant's Br. at 20 (citing Tr. v. II at 206).

[15] Therapist Roach testified that L.O. and S.O. had significant mental health trauma from the removal from Parents and the "family history." Tr. v. II at 232. Although Children had made some progress in therapy, they were experiencing "setbacks" due to uncertainty about their futures and a lack of permanency. *Id*. at 235. After visitations with Mother, Children were "stressed or anxious" due to a lack of "consistency," "structure," and predictability during visits. *Id*. at 236, 238. During visits, Mother was unable and/or unwilling to control Children's behavior. Roach was concerned that Children's "mental health" and "educational needs" would not be met if they were returned to Mother's care, and she did not believe reunification was in Children's best interests. *Id*. at 240.

[16] FCM John, home-based therapist Tolle, and home-based worker Johnson all testified that Mother consistently displayed dishonesty and a refusal to acknowledge Children's unmet needs and trauma, her own parenting short-comings, and the need to engage in services. They further testified that Mother continuously failed to comply with Children's case plan or fully engage in services. For example, Mother failed to complete a parenting assessment or provide verification of random drug screens. Thus, "[o]ver the 22 months of the DCS's involvement, Mother made little progress and failed to implement the skills she had been taught." Appealed Order at 16. In addition, at the TPR hearing, "Mother continued to be untruthful with the court regarding her [continued] relationship with Mr. Rice," despite the court's "multiple" prior

orders that Mother "not have contact with Mr. Rice or allow him around the Children." *Id*.

[17] Children were in a pre-adoptive relative placement "that is stable, meeting their needs, has ongoing services and is consistent with those services." Tr. v. II at 144. The CASA testified that Children were "thriving" in their pre-adoptive placement. Tr. v. III at 116. Both FCM John and CASA Allee testified that they believed termination of the parental rights was in Children's best interests due to Mother's lack of truthfulness, effort, understanding, and progress over the course of the CHINS and TPR proceedings.

[18] On November 29, 2022, the trial court issued findings of fact and conclusions thereon and an order terminating Mother's parental rights to Children. This appeal ensued.

Discussion and Decision

Motion to Dismiss

[19] Mother challenges the trial court's denial of her motion to dismiss for failure to timely complete a TPR hearing. A timely hearing on a TPR petition is required by statute. "Matters of statutory interpretation present pure questions of law, which an appellate court reviews de novo." *Matter of J.C.*, 142 N.E.3d 427, 429 (Ind. 2020).

[20] Indiana Code Section 31-35-2-6 provides, in relevant part:

> (a) …[T]he person filing the [TPR] petition shall request the court to set the petition for a hearing. Whenever a hearing is requested under this chapter, the court shall:
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> > (1) commence a hearing on the petition not more than ninety (90) days after a petition is filed under this chapter; and
> >
> > (2) complete a hearing on the petition not more than one hundred eighty (180) days after a petition is filed under this chapter.
>
> (b) If a hearing is not held within the time set forth in subsection (a):
>
> > (1) upon filing of a motion with the court by a party; and
> >
> > (2) absent good cause shown for the failure to hold the hearing within the time set forth in subsection (a);
>
> the court shall dismiss the petition to terminate the parent-child relationship without prejudice.

[21] However, a dismissal pursuant to the above statute is not available to one who has waived the 180-day statutory timeframe by inviting any alleged error. *J.C.*, 142 N.E.3d at 432.

> The invited-error doctrine is based on the doctrine of estoppel and forbids a party from taking advantage of an error that she commits, invites, or which is the natural consequence of her own neglect or misconduct. *Durden v. State*, 99 N.E.3d 645, 651 (Ind. 2018). Where a party invites the error, she cannot take advantage of that error. *Witte v. Mundy ex rel. Mundy*, 820 N.E.2d

> 128, 134 (Ind. 2005). In short, invited error is not reversible error. *Booher v. State*, 773 N.E.2d 814, 822 (Ind. 2002); *C.T. v. Marion Cty. Dep't of Child Servs.*, 896 N.E.2d 571, 588 (Ind. Ct. App. 2008), *trans. denied*.

Id. at 432.

[22] Thus, in *Matter of N.C.*, for example, we held that a parent had invited, and therefore waived, the alleged error that the TPR hearing was not timely held when he agreed to a continuance and failed to object to a new trial date that was set outside the statutory 180-day deadline. 83 N.E.3d 1265, 1267 (Ind. Ct. App. 2017); *see also J.C.*, 142 N.E.3d at 432 (finding invited error and waiver of statutory deadline where Mother did not object to an order scheduling the hearing beyond the 180-day deadline until the hearing was already under way); *cf. Matter of J.S.*, 133 N.E.3d 707, 711-12 (Ind. Ct. App. 2019) (dismissing TPR petition for untimely hearing where, well before the final hearing, parties abandoned initial acquiescence to a hearing beyond the deadline by specifically requesting earlier hearing date and filing motion to dismiss after request was denied).

[23] Here, on July 14, 2022, DCS filed a written motion for a continuance of the TPR hearing so the parties could attempt mediation. No one objected to that motion. Nor was there any objection to the July 20 order granting the motion for continuance and setting the hearing date for September 28, 2022, which was beyond the 180-day deadline. Rather, as in *J.C.*, Mother waited until the TPR hearing was underway to object on the grounds of timeliness. Therefore,

Mother invited the error of a hearing beyond the 180-day deadline and waived any statutory challenge thereto.

[24] Waiver notwithstanding, the trial court did not err in finding there was good cause for the continuance; i.e., the parties' desire to attempt to mediate the dispute. Because there was good cause for the continuance, dismissal was not required due to the failure to hold the hearing within the 180-day deadline. *See* Ind. Code § 31-35-2-6(b)(2).

TPR Determination

Standard of Review

[25] Mother maintains that the trial court's order terminating her parental rights is clearly erroneous. We begin our review of this issue by acknowledging that the traditional right of a parent to establish a home and raise his or her children is protected by the Fourteenth Amendment of the United States Constitution. *See*, *e.g.*, *In re C.G.*, 954 N.E.2d 910, 923 (Ind. 2011). However, a trial court must subordinate the interests of the parent to those of the child when evaluating the circumstances surrounding a termination. *In re K.S.*, 750 N.E.2d 832, 837 (Ind. Ct. App. 2001). 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.

[26] Before an involuntary termination of parental rights can occur in Indiana, DCS is required to allege and prove, among other things:

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

* * *

(iii) The child has been removed from the parent and has been under the supervision of a local office or probation department for at least fifteen (15) months of the most recent twenty-two (22) months, beginning with the date the child is removed from the home as a result of the child being alleged to be a child in need of services or a delinquent child;

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

I.C. § 31-35-2-4(b)(2). DCS need establish only one of the requirements of subsection (b)(2)(B) before the trial court may terminate parental rights. *Id.* DCS's "burden of proof in termination of parental rights cases is one of 'clear

and convincing evidence.'" *In re G.Y.*, 904 N.E.2d 1257, 1260-61 (Ind. 2009) (quoting I.C. § 31-37-14-2).

[27] When reviewing a termination of parental rights, we will not reweigh the evidence or judge the credibility of the witnesses. *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. *In re L.S.*, 717 N.E.2d 204, 208 (Ind. Ct. App. 1999), *trans. denied*.

[28] Here, in terminating Mother's parental rights, the trial court entered specific 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.

Challenge to Factual Findings

[29] Mother challenges the sufficiency of the evidence to support some of the court's factual findings.[5] In reviewing a court's factual findings, we bear in mind that the "factfinder is obliged to determine not only whom to believe, but also what portions of conflicting testimony to believe,… and is not required to believe a witness' testimony even when it is uncontradicted." *Wood v. State*, 999 N.E.2d 1954, 1064 (Ind. Ct. App. 2013) (citations omitted), *trans. denied*. Moreover, even erroneous findings are not reversible error if they are harmless. *See, e.g.*, *In re B.J.*, 879 N.E.2d 7, 20 (Ind. Ct. App. 2008) ("We may reverse a trial court's judgment… only if its findings constitute prejudicial error. … A finding of fact is not prejudicial to a party unless it directly supports a conclusion."), *trans. denied*. An erroneous finding is "merely harmless surplusage" when the unchallenged findings "provide ample support for the trial court's ultimate conclusion." *Id*.

[30] Mother challenges the findings that (1) she failed to engage in services as required; (2) she lacked progress with services; and (3) she failed to provide a "safe, stable home" for Children. Appellant's Br. at 19. However, there was sufficient evidence to support each of these findings. CHINS documentation—such as the orders on periodic reviews—and the testimony of the FCM, service providers, and CASA all show that Mother failed to engage in services as required; for example, as Mother admits, she failed to complete a parenting

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[5] Mother did not waive this claim, as DCS contends. Rather, Mother specifically requested "evaluat[ion of] whether or not the court had sufficient evidence to make the [challenged] findings" and then discussed the evidence. Appellant's Br. at 19.

assessment and failed to provide random drug screens. That same evidence also supports the finding that Mother lacked progress with the services in which she partially engaged. For example, Mother participated in visitations with Children but failed to adequately parent Children during visits, which caused Children to feel anxious and stressed following the visitations. And there was also evidence supporting the finding that Mother's home at the time of the termination hearing was not a "safe, stable home." There was testimony that the home was still dirty, lacked adequate food, and had animal feces on the floor. Thus, FCM John testified that Mother had found housing, but not that she had found "appropriate" housing. Tr. v. II at 206.

[31] Rather than showing a lack of evidence for the factual findings, Mother instead points to what she characterizes as conflicting evidence. However, this is merely a request that we reweigh the evidence and/or judge witness credibility, which we cannot do. *See, e.g., In re D.D.*, 804 N.E.2d at 265. The trial court's factual findings are not clearly erroneous.

Conditions that Resulted in Removal/Continued Placement

[32] Mother challenges the trial court's ultimate findings that there is a reasonable probability that the conditions that resulted in Children's removal and continued placement outside the home likely will not be remedied. When addressing that issue, we must determine whether the evidence most favorable to the judgment supports the trial court's determination. *In re D.D.,* 804 N.E.2d at 265; *Quillen*, 671 N.E.2d at 102. In doing so, we engage in a two-step

analysis. *In re E.M.*, 4 N.E.3d 636, 643 (Ind. 2014). "First, we identify the conditions that led to removal; and second, we determine whether there is a reasonable probability that those conditions will not be remedied." *Id*. (quotations and citations omitted).

[33] In the first step, we consider not only the initial reasons for removal, but also the reasons for continued placement outside the home. *In re N.Q.*, 996 N.E.2d 385, 392 (Ind. Ct. App. 2013). In the second step, the trial court must judge a parent's fitness to care for his or her children at the time of the termination hearing, taking into consideration evidence of changed conditions. *In re E.M.*, 4 N.E.3d at 643. The court must also "evaluate the parent's habitual patterns of conduct to determine the probability of future neglect or deprivation of the child." *Moore v. Jasper Cnty. Dep't of Child Servs.*, 894 N.E.2d 218, 226 (Ind. Ct. App. 2008) (quotations and citations omitted); *see also In re M.S.*, 898 N.E.2d 307, 311 (Ind. Ct. App. 2008) (noting the "trial court need not wait until a child is irreversibly harmed such that his physical, mental, and social development are permanently impaired before terminating the parent-child relationship"). In evaluating the parent's habitual patterns of conduct, the court may disregard efforts made shortly before the termination hearing and weigh the history of the parent's prior conduct more heavily. *In re K.T.K.*, 989 N.E.2d 1225, 1234 (Ind. 2013). 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. *Moore*, 894 N.E.2d at 226.

[34] Here, Children were removed from Parents' care and custody because of Parents' illegal drug use; educational neglect; unsafe and unsanitary housing; lack of supervision of Children; and the history of DCS involvement. At the time of the termination hearing, Mother had failed to submit to random drug screens as ordered; therefore, there was no evidence that she was no longer using illegal drugs. And while Children were in school, that was due to their foster parents' actions, not Mother's. Moreover, the evidence shows that Mother did not have adequate housing throughout most of the CHINS proceedings and, in fact, lied to the CASA about her alleged efforts to obtain housing. By the time of the termination hearing, Mother had obtained housing with an adequate number of beds for Children, but the cleanliness of the home was already deteriorating and there did not appear to be adequate, edible food. In addition, although Mother visited with Children, the evidence showed that she was unable or unwilling to control Children's behavior, which resulted in chaotic visitations that left Children anxious and stressed. And, following the removal of Children, Mother had begun an extra-marital relationship that the court found "counterproductive and harmful to the Children's safety and well-being." Appealed Order at 16. This led the court to order Mother to refrain from having contact with Rice or allowing him around Children. Yet, even at the time of the termination hearing, Mother continued to have communication with Rice and lie about it. Furthermore, throughout the CHINS and TPR proceedings, Mother "chose to not engage [in] and complete services offered by DCS or service providers." *Id*. at 19.

[35] All of that evidence provides ample support for the court's ultimate finding that Mother is not likely to remedy the reasons for Children's removal and continued placement outside her home.[6] Mother's arguments to the contrary are only requests that we reweigh the evidence, which we cannot do. *See, e.g., In re D.D.*, 804 N.E.2d at 265.

Best Interests of Children

[36] In determining whether termination of parental rights is in the best interests of a child, the trial court is required to look at the totality of the evidence. *In re A.K.*, 924 N.E.2d 212, 224 (Ind. Ct. App. 2010). "A parent's historical inability to provide adequate housing, stability and supervision coupled with a current inability to provide the same will support a finding that termination of the parent-child relationship is in the child's best interests." *Castro v. State Off. of Fam. & Child.*, 842 N.E.2d 367, 374 (Ind. Ct. App. 2006), *trans. denied*. "Additionally, a child's need for permanency is an important consideration in determining the best interests of a child, and the testimony of the service providers may support a finding that termination is in the child's best interests." *In re A.K.*, 924 N.E.2d at 224. Such evidence, "in addition to evidence that the conditions resulting in removal will not be remedied, is sufficient to show by

[6] Because Indiana Code Section 31-35-2-4(b)(2)(B) is written in the disjunctive, we do not address whether Mother posed a threat to Children's well-being.

clear and convincing evidence that termination is in the child's best interests." *In re A.D.S.*, 987 N.E.2d 1150, 1158-59 (Ind. Ct. App. 2013), *trans. denied*.

[37] Again, Mother's contentions on this issue amount to requests that we reweigh the evidence and judge witness credibility, which we will not do. *See In re D.D.*, 804 N.E.2d at 265. The evidence most favorable to the judgment shows that, throughout the CHINS and TPR proceedings, Mother failed to complete services that were designed to improve her parenting skills, such as a parenting assessment and home-based services, and thus failed to learn such skills. Mother also failed to provide random drug screens, as ordered, to show that she was no longer using illegal drugs. Mother also was consistently untruthful with DCS, the CASA, service providers, and even the court itself. And Mother failed to obtain adequate housing for Children until a TPR action was filed. The trial court did not err in weighing Mother's extensive history of either homelessness or unsafe and unsanitary housing more heavily than her obtaining a still unsanitary home just before termination of her parental rights. *See K.T.K.*, 989 N.E.2d at 1234.

[38] Moreover, the FCM, CASA, and service providers testified that termination of Mother's parental rights is in Children's best interests due to Mother's lack of truthfulness, effort, understanding, and progress over the course of the CHINS and TPR proceedings. Given that testimony, in addition to evidence that Children need permanency and stability that Mother cannot provide and that the reasons for Children's removal from Mother will not likely be remedied, we hold that the totality of the evidence supports the trial court's determination

that termination is in Children's best interests. *In re A.D.S.*, 987 N.E.2d at 1158-59.

Conclusion

[39] Mother waived any alleged error in holding the hearing beyond the 180-day statutory deadline by inviting it, and, in any case, there was good cause to continue the hearing beyond the deadline such that the TPR action should not have been dismissed. The evidence in the record supports the trial court's findings of fact, and those findings support the trial court's judgment terminating Mother's parental rights.

[40] Affirmed.

Tavitas, J., and Kenworthy, J., concur.