

# MEMORANDUM DECISION

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## ATTORNEY FOR APPELLANT

Lisa Diane Manning  
Plainfield, Indiana

## ATTORNEYS FOR APPELLEE

Theodore E. Rokita  
Attorney General of Indiana

Frances Barrow  
Deputy Attorney General  
Indianapolis, Indiana

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# IN THE COURT OF APPEALS OF INDIANA

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

C. J. (Minor Child),

And

J. J. (Mother),

*Appellant-Respondent,*

v.

Indiana Department of Child  
Services,

*Appellee-Petitioner.*

July 14, 2023

Court of Appeals Case No.  
23A-JT-122

Appeal from the Clay Circuit  
Court

The Honorable Joseph Trout,  
Judge

Trial Court Cause No.  
11C01-2112-JT-259

**Memorandum Decision by Judge Riley**  
Judges Bradford and Weissmann concur.

**Riley, Judge.**

**STATEMENT OF THE CASE**

[1] Appellant-Respondent, J.J. (Mother), appeals the trial court’s Order, terminating her parental rights to her minor child, C.J. (Child).

[2] We affirm.

**ISSUE**

[3] Mother presents this court with one issue on appeal, which we restate as:  
Whether the trial court erred when it concluded that termination of Mother’s parental rights was in Child’s best interests.

**FACTS AND PROCEDURAL HISTORY**

[4] Child was born to Mother on March 3, 2012, with her biological father being unknown. On May 15, 2020, the Department for Child Services (DCS) became involved with Child and Mother, after receiving a report that Mother was using illegal substances while caring for Child. Upon investigation, DCS observed that Mother’s home smelled of marijuana, which Mother admitted to using. Mother was offered and agreed to an Informal Adjustment. During the Informal Adjustment, Mother consistently tested positive for illegal substances and her home conditions were poor. She did not have a plan for Child’s education nor a plan for Child to have a safe and sober caregiver. An

assessment completed by family preservation services identified several areas of concern, including substance abuse, cleanliness of the home, and safety.

Despite family preservation services offering to help Mother with finances and mental health treatment, Mother declined the involvement. In September 2020, the service was closed out as unsuccessful when Child was removed from the home.

- [5] On September 10, 2020, DCS filed its petition, alleging Child was a Child in Need of Services (CHINS) and removed Child from Mother's care. On December 29, 2020, the trial court adjudicated Child to be CHINS. During a dispositional hearing held on January 26, 2021, at which Mother failed to appear, Mother was ordered to participate in case management services. Although DCS referred Mother to case management services three times, the referrals were closed because Mother failed to meet with the providers and would not return phone calls. Throughout these proceedings, Mother was unemployed and did not have a legal source of income. Mother has been homeless since 2021, when she was released from jail after being convicted for theft, as a Class A misdemeanor in December 2020. The goals of case management services, *i.e.*, finding appropriate housing, employment, transportation, and gaining parenting skills, were all unmet at the time of the termination of parental rights hearing.

- [6] The dispositional decree also ordered Mother to complete a substance abuse assessment due to her use of methamphetamine. Despite Mother's insistence that she could complete substance abuse treatment without DCS's assistance,

Mother never followed through or participated in any services or treatment over the course of these proceedings. During the CHINS case, Mother only submitted to eighteen drug screens, all of which tested positive for methamphetamine, amphetamine, and THC. Following the dispositional hearing, Mother was required to submit to random daily drug screens. Mother missed 208 drug screens.

- [7] The trial court ordered Mother to participate in home-based counseling, in medication management, and to undergo a psychological evaluation. Mother never completed a mental health assessment or psychological evaluation, and her referrals to home-based therapy were closed for non-compliance and non-attendance.
- [8] Following Child's removal from her care, Mother was granted supervised visits once per week for two hours. From Child's removal in September 2020 until December 2021, Mother attended 20 out of 68 scheduled visits. Initially, Mother and Child shared a strong bond. However, during later visits, Mother started to act out in front of Child. At times, when DCS's family case manager (FCM) would arrive at the visit, Mother would become visibly upset and combative, which in turn upset Child. Mother would discuss the CHINS case with Child, fail to discipline Child, and bring sugary sodas and snacks despite Child having been diagnosed with ADHD. Due to Mother's missed visits and inappropriate behavior, the trial court suspended visitation on December 21, 2021. Visitation was never resumed.

[9] DCS referred Child to counseling services in December 2020. The therapist's developed plan for Child consisted of play therapy and behavioral therapy to help Child learn coping skills for trauma-related symptoms, to reduce Child's negative behaviors, and to teach positive coping skills. Child's history of trauma included sexual abuse, neglect, being left home alone, and having random strangers in the home. Initially, Child had difficulty expressing emotions, suffered from low self-esteem, and performed poorly in school. Child expressed anger and feelings of abandonment towards Mother and worried about Mother even though she realized she would not be safe in her care. When Mother missed a scheduled visit, Child would be mean to her foster family and to her classmates at school. Child's final visit with Mother on August 16, 2021 was particularly traumatic when Mother expressed her displeasure with Child's haircut that Child had picked out. The day after the visit, Child passed out and required medical attention. After visitation was suspended and at the time of the fact-finding hearing, Child was well bonded with her foster family and was getting A's and B's in school. Child is doing well in foster care, she is emotionally stable, and has a supportive environment at home, at school, and at church. Child's therapist opined that resuming visits with Mother would be traumatic. Child's CASA advised that adoption by the current foster family was in Child's best interests.

[10] On December 20, 2021, DCS filed its petition to terminate Mother's parental rights to Child. The trial court conducted fact-finding hearings on DCS's petition on March 15, 2022, June 14, 2022, June 16, 2022, and September 6,

2022. On September 20, 2022, the trial court entered its Order, terminating Mother’s parental rights and concluding, in pertinent part, that:

There is a reasonable probability that:

- a. The conditions which resulted in Child’s removal and continued placement outside the home will not be remedied by [] Mother;
- b. That continuation of the parent-child relationship poses a threat to Child’s well-being.

Termination of parental rights is in Child’s best interests.

There is a satisfactory plan for the care and treatment of Child, that being adoption.

(Appellant’s App. Vol. II, p. 107).

[11] Mother now appeals. Additional facts will be provided as necessary.

## **DISCUSSION AND DECISION**

### *I. Standard of Review*

[12] Mother challenges the trial court’s termination of her parental rights to her Child. The Fourteenth Amendment to the United States Constitution protects the traditional right of parents to establish a home and raise their children. *Bester v. Lake Cnty. Office of Family & Children*, 839 N.E.2d 143, 147 (Ind. 2005). “A parent’s interest in the care, custody, and control of his or her children is ‘perhaps the oldest of the fundamental liberty interests.’” *Id.* (quoting *Troxel v. Granville*, 530 U.S. 57, 65 (2000)). However, parental rights “are not absolute and must be subordinated to the child’s interests in determining the proper disposition of a petition to terminate parental rights.” *Id.* If “parents are unable

or unwilling to meet their parental responsibilities,” termination of parental rights is appropriate. *Id.* We recognize that the termination of a parent-child relationship is “an ‘extreme measure’ and should only be utilized as a ‘last resort when all other reasonable efforts to protect the integrity of the natural relationship between parent and child have failed.’” *K.E. v. Ind. Dep’t of Child Servs.*, 39 N.E.3d 641, 646 (Ind. 2015) (quoting *Rowlett v. Vanderburgh Cnty. Office of Family & Children*, 841 N.E.2d 615, 623 (Ind. Ct. App. 2006)).

[13] Indiana courts rely on a “deferential standard of review in cases concerning the termination of parental rights” due to the trial court’s “unique position to assess the evidence.” *In re A.K.*, 924 N.E.2d 212, 219 (Ind. Ct. App. 2010), *trans. dismissed*. Our court neither reweighs evidence nor assesses the credibility of witnesses. *K.T.K. v. Ind. Dep’t of Child Servs.*, 989 N.E.2d 1225, 1229 (Ind. 2013). We consider only the evidence and any reasonable inferences that support the trial court’s judgment, and we accord deference to the trial court’s “opportunity to judge the credibility of the witnesses firsthand.” *Id.*

## II. *Analysis*

[14] In order to terminate a parent’s rights to his or her child, DCS must prove:

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

(i) The child has been removed from the parent for at least six (6) months under a dispositional decree.

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(iii) The child has been removed from the parent and has been under the supervision of a local office . . . 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 [CHINS] . . . ;

(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.

Ind. Code § 31-35-2-4(b)(2). DCS must prove each of the foregoing elements by clear and convincing evidence. *C.A. v. Ind. Dep't of Child Servs.*, 15 N.E.3d 85, 92 (Ind. Ct. App. 2014). “[C]lear and convincing evidence requires the existence of a fact to be highly probable.” *Id.* Mother “concedes the trial court’s findings of fact are supported by the evidence.” (Appellant’s Br. p. 8). Unchallenged findings “must be accepted as correct,” and the reviewing court need only determine whether the unchallenged findings are sufficient to support the judgment. *In re S.S.*, 120 N.E.3d 605, 609 (Ind. Ct. App. 2019) (“Neither Father nor Mother has challenged any of the juvenile court’s findings of fact



and therefore, we need only determine whether those findings support the juvenile court's conclusion.”).

[15] Mother only challenges the trial court's conclusion that termination is in Child's best interests. To determine whether termination is in a child's best interests, the trial court must look to the totality of the evidence. *In re A.D.S.*, 987 N.E.2d 1150, 1158 (Ind. Ct. App. 2013), *trans. denied*. The court must subordinate the interests of the parents to those of the child and need not wait until a child is irreversibly harmed before terminating the parent-child relationship. *Id.* In this regard, “recommendations by both the case manager and the child advocate to terminate parental rights, in addition to evidence that the conditions resulting in removal will not be remedied, is sufficient to show by clear and convincing evidence that termination is in the child's best interests.” *Id.* at 1158-59.

[16] Child's CASA testified that Child was doing well in her current placement and that adoption by Child's foster family was in Child's best interests. Child has made significant progress while residing with her foster family. Although initially Child had difficulty expressing emotions, had low self-esteem, and performed poorly in school, after suspension of the weekly visits with Mother, Child became bonded with her foster family and got A's and B's in school. Child's history of trauma is being addressed through play and behavioral therapy. She is now emotionally stable, and has a supportive environment at home, at school, and at church.

[17] Evidence establishing the unfitness of a parent—as established by the trial court’s unchallenged findings—may also support a court’s legal conclusion that termination is in Child’s best interests. *In re A.K.*, 924 N.E.2d 212, 221 (Ind. Ct. App. 2010). Here, it is uncontested that Mother remains unwilling to provide Child with safe and stable permanency. She has been homeless since April 2021, refused to avail herself of the services offered by DCS, and never made any progress towards obtaining housing, employment, and sobriety. “[C]hildren cannot wait indefinitely for their parents to work toward preservation or reunification.” *In re E.M.*, 4 N.E.3d 636, 648 (Ind. 2014). Even though “the ultimate purpose of the law is to protect the child, the parent-child relationship will give way when it is no longer in the child’s interest to maintain this relationship.” *In re B.D.J.*, 728 N.E.2d 195, 200 (Ind. Ct. App. 2000). Mother’s historical lack of participation in services requested by DCS to address the issues which led to Child’s removal from the home supports the trial court’s conclusion that termination of her parental rights is in the best interests of Child. Accordingly, we affirm the trial court’s decision.

## **CONCLUSION**

[18] Based on the foregoing, we hold that the trial court properly terminated Mother’s parental rights to Child.

[19] Affirmed.

[20] Bradford, J. and Weissmann, J. concur